

BCC Mtg. Date: September 12, 2023

Effective Date: March 15, 2024

ORDINANCE NO. 2023-35

AN ORDINANCE AFFECTING THE USE OF LAND REGARDING TREE PROTECTION AND REMOVAL IN ORANGE COUNTY, FLORIDA BY AMENDING, CREATING, AND REPEALING CERTAIN PROVISIONS IN CHAPTER 15, ARTICLE VIII OF THE ORANGE COUNTY CODE; AND BY CREATING CERTAIN PROVISIONS IN CHAPTER 24, ARTICLE I RELATED TO RECOMMENDED, REPLACEMENT, RESTRICTED AND SPECIMEN TREES AND MINIMUM RESIDENTIAL LOT TREES; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

Section 1. Amendments; In General. Divisions 1 and 2 of Article VIII, Chapter 15, Orange County Code, and Article I, Chapter 24, Orange County Code, are amended as set forth in Sections 2 through 18 below, with additions being shown as underlined and deletions being shown as ~~strike-throughs~~.

Section 2. Amendment to Division 1 (Generally), Section 15-276. Section 15-276 (“Findings of fact and statement of purpose.”) is amended to read as follows:

CHAPTER 15

ARTICLE VIII. TREE PROTECTION AND REMOVAL

DIVISION 1. GENERALLY

Sec. 15-276. Findings of fact and statement of purpose.

(a) A healthy urban forest supports and improves the quality of life for businesses, property owners, residents, and visitors by enhancing our air and water quality, reducing heat, buffering noise, decreasing erosion and flooding, preventing pollution from stormwater runoff and providing habitat for wildlife. The purpose of this article is to promote a healthy urban forest, diverse with various species and ages of native and Florida Friendly™ vegetation while considering property values, appearance of all developments, and adequate buffers between different land uses.

~~(ba)~~ The board of county commissioners has determined that requirements for protection of trees in the unincorporated area of the county are not only desirable, but are essential to ensuring the health and general well-being of the community and that the required use of such restrictions is a proper use of the police powers. The general removal of trees should be appropriately controlled ~~and~~ and, where possible, existing trees should be preserved on-site as property is developed.

~~(cb)~~ ~~The Orange County Orange County's Comprehensive Policy Plan Conservation Element policy 1.12.1 states:~~ provides that Orange: "Orange County shall augment its protection of vegetated resources in urban areas, including but not limited to the tree protection ordinance. This action would to ensure that high quality trees would receive greater protection in the development review process, require preservation of valuable tree species, prohibit indiscriminate clearing, require replacement and maintenance measures, and establish ratios for replacement if removal is unavoidable."

~~(de)~~ The requirements of this article generally help maintain a balance between important environmental concerns and compatible development. In ~~so doing~~ doing, they:

- (1) Allow development while encouraging ~~the establishment of an acceptable amount of tree coverage~~ greater forest coverage of native and Florida FriendlyTM species on public and private lands within unincorporated Orange County.
- (2) Maintain existing trees in a healthy and non-hazardous condition through good arbor practices that include, but are not limited to, root protection at the drip line and appropriate maintenance pruning as recommended by professional arborists.
- (3) Establish and maintain appropriate diversity in tree species and age classes to provide a healthy and sustainable urban/suburban forest maturity to provide a resilient and sustainable urban forest.

~~(d)~~ ~~Trees are proven producers of oxygen, a necessary element for the survival of mankind; they reduce the level of carbon dioxide in the air, dilute air pollutants and reduce noise.~~

~~(e)~~ ~~Trees play a pronounced and important role in countywide soil conservation, soil enrichment and erosion control.~~

~~(f)~~ ~~Trees enhance the value of property by providing a valuable psychological and visual counterpoint to manmade changes during land development and urbanization.~~

~~(g) Trees provide wildlife habitat and play other important ecological roles.~~

~~(h) Trees make the county more visually and aesthetically attractive to existing and prospective residents and visitors in addition to enhancing the community's sense of place.~~

~~(i) Trees screen and absorb pollutants including but not limited to dust, traffic noise and other pollutants.~~

~~(j) Trees protect the community from climatic extremes by providing shade and windbreak protection and by moderating temperatures within neighborhoods, parking lots, etc.~~

~~(k) Trees reduce the quantity of surface runoff and reduce the velocity of erosion and sediment transfer.~~

~~(l) Trees help purify stormwater runoff by removing nutrients prior to the runoff entering the aquifer.~~

Section 3. Amendment to Division 1 (Generally), Section 15-277. Section 15-277

("Definitions.") is amended to read as follows:

Sec. 15-277. Definitions.

The following ~~words, terms and phrases, words and terms~~ when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Arborist shall mean a qualified professional, employed by the County, with experience in the field(s) of landscape architecture, arbor science, forestry, or other related field.

Caliper shall mean a measurement of the size of a replacement tree at a predetermined point. ~~Trunk diameter for trees~~ Trees with trunk diameters up to four (4) inches is to will be measured six (6) inches above the ~~soil line~~ existing grade. Trees with trunk diameters four (4) inches in diameter and greater will be measured twelve (12) inches above the ~~soil line~~ existing grade.

Canopy tree shall mean a species of tree ~~that which~~ normally grows to a mature height of forty (40) feet or more.

Champion tree shall mean any tree that has been designated as ~~the largest tree of its species in the state of Florida as measured by trunk diameter at breast height and crown diameter. These may include any species not listed on the restricted stock list.~~

Cleaning shall mean the removal of vegetation, roots or stumps, brush, undergrowth, trees considered restricted stock as listed in

section 24-12(b) (an invasive species), as identified on the List of Invasive Plant Species by the Florida Exotic Pest Plant Council, or trees and palms not otherwise authorized for removal by this article with a trunk diameter of less than eight (8) inches, from undeveloped, vacant or otherwise abandoned property. Clearing shall not include clearing or mass grading.

Clearing shall mean the removal or destruction of a tree by digging, ~~pushing or pushing~~, cutting, burning, or having the effect of removal through other damage. Soil disturbance such as root raking or compaction shall also be considered clearing, if trees or their root systems are damaged in the process. Clearing shall not include routine maintenance, such as mowing, removing underbrush, or bushhogging, so long as no damage is caused to existing trees.

Conservation-areas area shall mean lands, as defined in Chapter 15, Article X, Wetland Conservation Areas that ~~which~~ have unsuitable or nonrated soils, wetland vegetative species, are seasonally flooded and perform an environmental function, as described in the county's comprehensive ~~policy~~ plan.

Developable area shall mean the gross land area of a site excluding natural surface waterbodies and designated conservation areas.

Developed property shall mean a lot or parcel of land, or portion thereof, that has undergone site improvements or building construction in accordance with a required permit or permits, and that has received a certificate of completion or certificate of occupancy, where applicable.

Development order shall mean an issued or approved site plan, building permit, zoning permit, preliminary subdivision plan, subdivision plan, development plan, or any other official action of Orange County having the effect of permitting the development of land, that has not expired and has received final approval.

Diameter at breast height (DBH) shall mean a measurement of the size of a tree equal to the diameter, in inches, of a tree measured at four and one-half (4½) feet above the existing grade. For multi-trunked trees, the DBH shall mean the cumulative diameter of the three (3) largest trunks, measured two (2) feet above the existing grade. For palms, the measurement of caliper shall be a maximum of two (2) inches, regardless of height, and the measurement of height shall be at the clear trunk.

Drip line shall mean a vertical line from the horizontal extremity of the canopy of a tree to the ground. For trees with canopies set off-center from the trunk, an area bounded by the average diameter of

the ~~drip line~~ drip line will be centered on the point at which the trunk of the tree is rooted.

Heritage tree shall mean a tree that meets the species and size requirements listed in section 15-283(b).

Limit of work shall mean the limit of clearing, grubbing, filling, or areas to be excavated and is not more than the area(s) required for the completion of the work for construction.

Pre-existing lot or parcel shall mean any platted or existing lot or parcel that is part of a preliminary subdivision plan approved prior to the adoption of this ordinance ~~November 6, 2001~~.

~~Preserved trees~~ tree shall mean ~~trees that are~~ a tree that is designated to remain after construction and count toward replacement requirements per this article.

Professional surveyor shall mean a person licensed by the State of Florida as a professional surveyor and mapper pursuant to Chapter 472, Florida Statutes.

~~Protected tree~~ shall mean ~~any tree, on the recommended stock list, which is identified in the protection zones as described in section 15-301(e). Unless exempted, all of these trees are subject to a tree removal permit per this article.~~

Recommended stock shall mean a tree species identified in section 24-12(a).

Regulated tree shall mean a tree listed on the recommended stock list in section 24-12(a) that is eight (8) inches DBH or greater.

~~Replacement trees~~ tree shall mean a tree planted to replace an existing trees tree as ~~required by~~ identified in section 24-12(a) ~~15-283~~.

~~Residential lot trees~~ shall mean ~~trees that are required to be planted on residential lots per section 15-306. These trees are required to be a minimum of eight (8) feet tall and have a minimum caliper of two (2) inches and are to be selected from the recommended stock list in section 15-283(a).~~

Restricted stock shall mean a tree species identified in section 24-12(b).

~~Severely trimming~~ Severe pruning shall mean the cutting of a branch, limb, branches and/or trunk of a tree in a manner ~~that~~ which will substantially reduce the overall size of the tree area so as to destroy the existing symmetrical appearance or natural shape of the ~~tree~~. This includes ~~trimming tree, including pruning~~ or cutting in a manner, ~~which~~ that results in the removal of main lateral ~~branches~~ braches, leaving the trunk of the tree in a stub appearance.

~~Specimen trees~~ tree shall mean ~~live oak and magnolia trees~~ twenty four (24) inches DBH or greater. Specimen trees shall also include Champion trees as defined in this article a tree that meets the species and size requirements listed in section 15-283(a).

Tree shall mean any living, woody self-supporting perennial plant ~~that which~~ normally grows to a minimum height of fifteen (15) feet.

Tree risk management methodology shall mean the methodology created and endorsed by the International Society of Arboriculture (ISA) to provide a process for assessing tree risk.

~~Trees, stands~~ Stand of, shall mean a naturally occurring grouping of five (5) or more trees forming a canopy of vegetation ~~that which~~ results in a single unified drip line.

Underbrush shall mean native shrubs, bushes, or small trees growing beneath large trees in a wood or forest.

Understory tree shall mean a species of tree ~~that which~~ normally grows to a mature height of fifteen (15) to ~~thirty nine (39)~~ forty (40) feet. For purposes of this article, palms shall be considered understory trees.

Zoning manager shall mean the manager of the Orange County Zoning Division or ~~his/her~~ the designated arborist.

Section 4. Amendment to Division 1 (Generally), Section 15-278. Section 15-278

(“Permits required.”) is amended to read as follows:

Sec. 15-278. ~~Permits required.~~ Tree removal permits; generally.

(a) It shall be unlawful for any person to, or cause to, destroy, permanently injure, or remove any ~~protected~~ regulated tree as defined in this article without first obtaining a tree removal permit or other removal authorization or otherwise establish that the ~~protected-regulated~~ tree qualifies for an exception or exemption as provided in this article.

(b) Nothing contained in this ~~article ordinance~~ shall be deemed to impose any liability upon the county, its officers, or employees, nor to relieve the owner of any private property from the duty to keep any tree, shrub, or plant upon any area of ~~his/her~~ the property ~~or under his/her control~~ in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any private road or public right-of-way, park, or other public place within the county.

(c) Nothing contained herein shall prevent a property owner from ~~maintenance or trimming of~~ properly maintaining or pruning trees on ~~his/her~~ the property. ~~In fact, proper trimming should be a necessary~~ Proper pruning, consistent with sections 15-282(e)(1)-(2), is the responsibility of every property owner, such so that no severe tree pruning occurs does not occur.

Section 5. Amendment to Division 1 (Generally), Section 15-279. Section 15-279

(“Exceptions and exemptions”) is amended to read as follows:

Sec. 15-279. Exceptions and exemptions.

(a) *Exceptions.* Unless a tree is located in a designated conservation area, a ~~A~~ tree removal permit shall not be required for the following: ~~tree removal activities, unless the area is designated as a conservation area.~~

- (1) ~~Public~~ The removal of any tree located within a public road, public right-of-way, or public drainage rights-of-way right-of-way, utility rights-of-way right-of-way, or permanent utility easements easement, or and/or drainage traets tract or easement. A permit may be required for removal of a tree within a private road or private right-of-way.
- (2) ~~Access roads for private developments through Protection Zone “A” as defined in section 15-301(e)(1)b.~~
- (23) ~~The trees~~ A tree considered restricted stock as listed in section 15-283(b) 24-12(b) (restricted stock).
- (34) ~~Trees~~ A tree less than eight (8) inches DBH.
- (45) ~~Underbrush, including palmetto and shrubs, provided that such removal does not adversely affect regulated trees (other than those specified above) within their drip line drip line and is not performed with heavy earth moving equipment but rather by mowing equipment to retain vegetative cover for the purpose of wind and water erosion.~~
- (56) ~~Removal of a whole live trees tree~~ for sale as nursery stock by a bona fide commercial tree nursery.
- (67) ~~Land used for bona fide agriculture and classified as such for property-tax purposes by the Orange County Property Appraiser, subject to section 15-279(e). However, before removing protected trees on any such agricultural land designated by the county’s comprehensive policy plan as either “urban service area,” “growth center,” or “village land use,” a tree removal permit must be obtained, but the~~

~~removed trees are not required to be replaced as otherwise required under this article. If at anytime before the eighth anniversary of the date the tree removal permit was issued either the bona fide agricultural use ceases, except in cases of bankruptcy, or the landowner or his or her agent applies for a land use change or a development order or permit, the trees removed pursuant to the tree removal permit shall then be replaced as required under this article, and approval or issuance of the requested land use change or development order or permit (if applicable) may be withheld until the replacement requirements have been fulfilled.~~

- ~~(78) Individual~~ An individual deteriorated or damaged trees, tree with a tree risk rating assessed to have a high likelihood or greater of impact and consequences of failure as determined by the tree risk management methodology, conducted by a professional as determined by section 163.045, Florida Statutes, including trees which have a tree that has deteriorated as a result of age, fire, freeze, disease, lightning, or other acts act of nature and which may constitute a hazard to life or property. If more than five (5) trees are to be removed, the zoning manager shall verify said deterioration or damage.
- ~~(89) Trees~~ A tree located on a lot or parcel of record that is actively used for single-family residential purposes lot, which that is two (2) acres or less in size, and contains an occupied residential dwelling.
- ~~(10) Certified Affordable Housing Projects~~ as defined by Orange County Administrative Regulations Section 11.02.06, as it may be amended from time to time, shall meet the requirements of this ordinance. Such projects, however, shall not be subject to the tree removal application fees.
- ~~(911) Developments~~ A development with a valid Preliminary Subdivision Plan (PSP), preliminary subdivision plan, development plan or construction plan development order approved prior to the effective date of the ordinance November 6, 2001, that specifically authorized impacts to trees and required mitigation subject to the provisions of this article or its previously adopted versions. However, any amendments to an approved preliminary subdivision plan, development plan, or development order submitted after March 15, 2024, that may impact trees not originally contemplated will be subject to the requirements of this article.

(b) *Exemptions.* In the case of a County-declared emergency such as a hurricane, flood or other disaster, the requirements of this article may be waived so as not to hamper public ~~or and/or~~ private work to restore order.

(c) Notwithstanding any exception expressed in this section, the The removal of any tree shall require adequate wind and water erosion control measures as well as compliance with any other applicable county codes.

(d) A Certified Affordable Housing Project pursuant to Orange County Administrative Regulation 4.08, as it may be amended from time to time, shall meet the requirements of this article, however is not subject to tree removal permit application fees.

(e) Before removing a regulated tree on any land used for bona fide agriculture and classified as such for property tax purposes by the Orange County Property Appraiser that is designated by the county's comprehensive plan as "urban service area," "growth center," or "village land use," a tree removal permit must be obtained, but a removed tree is not required to be replaced as otherwise required by this article. However, if before the eighth anniversary of the date a tree removal permit was issued the bona fide agricultural use ceases, except in a case of bankruptcy, or the landowner or his or her agent applies for a land use change or a development order or permit, the trees removed pursuant to the tree removal permit shall be replaced as required under this article, and approval or issuance of the requested land use change or development order or permit (if applicable) may be withheld until the replacement requirements have been fulfilled.

Section 6. Division 1 (Generally), Section 15-280. Section 15-280 ("Jurisdiction of article") will continue to read as follows:

Sec. 15-280. Jurisdiction of article.

The terms and provisions of this article shall apply to all real property lying within the unincorporated areas of the county.

Section 7. Amendment to Division 1 (Generally), Section 15-281. Section 15-281

(“Variance, appeal and penalty.”) is amended to read as follows:

Sec. 15-281. Variance, appeal and penalty. Deviations from regulations; appeals.

(a) *Deviations from regulations.* The zoning manager may grant deviations from any provision of this article where the strict application of the provision to a particular site would create a substantial economic hardship, or to facilitate an affordable housing project where a certified affordable housing certificate exists. In all cases, reasonable efforts must be made to preserve regulated trees consistent with ~~per~~ this article. The zoning manager may grant deviations from any provision of this article only when the applicant demonstrates that the purposes of this article will be or have ~~has~~ been achieved by other means. If the zoning manager denies a request for deviation from this article because the applicant did not demonstrate that the purposes of the article will be or have ~~has~~ been achieved by other means, ~~then~~ the applicant may appeal the decision of the zoning manager to the Development Review Committee (DRC), and the DRC shall review the ~~zoning manager’s~~ decision pursuant to the standards set forth in section 34-27, Orange County Code.

(b) *Variance.* Upon application by the property owner, the preservation of any tree on the recommended stock list ~~over twenty-four (24) inches DBH~~ may be considered as the basis for the granting of a variance by the Board of Zoning Adjustment (BZA) from the ~~literal~~ strict application of the provisions of the county’s zoning regulations set forth in section 30-43 or by the DRC from subdivision regulations set forth in sections 34-27, 34-28 and 34-29. ~~An administrative~~ A variance from ~~to chapter~~ Chapter 24, Landscaping, Buffering and Open Space requirements regarding landscape islands may be granted to allow for the preservation of a healthy specimen tree as defined in this article. The number, spacing and configuration of landscape islands may be reduced, altered, or reconfigured to encourage the preservation of specimen trees.

~~(c) Enforcement Official. The zoning manager, code enforcement officer, or other county designees shall be empowered to issue citations and evaluate a site for its compliance with this article.~~

~~(cd)~~ *Appeals.* Any person adversely affected by a ~~the~~ decision of the zoning manager or other county official in the enforcement or interpretation of this article may appeal such decision to the DRC within thirty (30) days. Such appeal shall be made by requesting a

hearing in writing to the chairman of the DRC. Such request shall include a summary of the decision being appealed and the basis for the appeal.

Any person adversely affected by ~~a~~ the decision of the DRC may appeal such decision to the board of county commissioners by submitting a letter to the chairman of the DRC. ~~Said~~ Such appeal must be ~~made~~ filed within thirty (30) days of decision by the DRC. If the decision of the DRC being appealed is related to an ~~some~~ application or process that ~~which~~ requires a board of county commissioners public hearing, ~~then~~ the appeal shall be heard and considered concurrent with the public hearing on the application. If the decision of the DRC being appealed does not otherwise require a board of county commissioners public hearing, ~~then~~ the appeal shall be promptly forwarded to the board of county commissioners for consideration.

Any person adversely affected by the board of county commissioners' decision may file a petition for a writ of certiorari in the Circuit Court ~~of the County~~. Such action shall be instituted in accordance with section 30-90.

~~(e) Penalty for violation. Violations of this article shall be subject to the following:~~

- ~~(1) Where violations of this article have occurred, remedial action shall be taken to restore the property consistent with a restoration plan approved by the zoning manager. The restoration plan shall include payment of the required application fee, require tree replacement, and require mitigation of any other damage to the property. Remedial action must be taken within 60 days of receipt of notice of violation or as approved by the zoning manager.~~
- ~~(2) No certificate of occupancy or certificate of completion shall be issued for any development until all applicable permits or restoration plan conditions have been accomplished.~~
- ~~(3) Trees removed without a permit or destroyed or which received major damage in violation of section 15-282 must be replaced before the issuance of a certificate of completion or certificate of occupancy by any or any combination of the following:
 - ~~a. A comparable size and type tree;~~
 - ~~b. Replacement at a two (2) to one (1) ratio of the cumulative caliper of the trees to be installed to the cumulative DBH of the trees removed, destroyed or damaged. Replacement trees shall be chosen from the~~~~

~~recommended stock list per section 15-283 and shall be installed in accordance with section 15-282; or~~

~~e. Payment into the county tree fund in an amount equal to the cost of the two (2) to one (1) ratio replacement per section 15-281(e)(3)b, above.~~

~~(4) Specimen trees removed without permit or destroyed or receiving major damage in violation of section 15-282 must be replaced by any of or any combination of the following:~~

~~a. Replacement at a four (4) to one (1) ratio of the cumulative caliper of the trees to be installed to the cumulative DBH of the specimen trees removed. Replacement trees shall be chosen from the recommended stock list. All trees shall be installed in accordance with section 15-282 before issuance of a certificate of completion or certificate of occupancy; or~~

~~b. Payment into the county tree fund in an amount equal to the cost of the four (4) to one (1) replacement per section 15-281(e)(4)a. above.~~

~~(5) Failure to comply with required remedial action shall be referred to the code enforcement board.~~

~~(6) If the county code enforcement board finds any person in violation of any provision of this article or any condition of any permit issued pursuant to this article, then that person shall be subject to the tree replacement requirements of section 15-281(e) and a penalty not exceeding the sum of five hundred dollars per offense or violation. Each tree, removed, damaged or destroyed, may constitute a separate offense and violation of this article. Each day that a violation of any provision of this article or any permit condition is allowed to continue, including the failure to replace any tree removed, damaged or destroyed pursuant to the provisions of this article, may constitute a separate offense and violation of this article.~~

~~(f) *Rules and regulations.* The board of county commissioners is hereby authorized to adopt by resolution such rules and regulations as are necessary or proper to implement this article.~~

~~(g) *Fees.* Appropriate fees shall be established by the board of county commissioners and amended by resolution as necessary.~~

Section 8. Amendment to Division 1 (Generally), Section 15-282. Section 15-282

(“Tree protection and maintenance during and after development and construction.”) is amended to read as follows:

Sec. 15-282. Tree protection and maintenance during and after development and construction.

(a) Following development approval, it shall be unlawful for any person, during the construction of any structures or other improvements, to place solvents, material, construction machinery or soil deposits within the drip line ~~drip-line~~ of any tree ~~that~~ which is designated to remain.

(b) It shall be the responsibility of the permittee to ensure that any tree or stand of trees designated to remain be protected with protective barriers during construction. Barriers for the designated protected trees shall be in place prior to any land clearing occurring near protected trees designated to remain. The property owner shall guarantee survival of retained or replacement trees for one (1) year from the issuance of a certificate of completion or certificate of occupancy, as applicable, or until the issuance of a certificate of occupancy on single-family residential lots. All trees installed to meet the requirements of this article shall be planted and irrigated in accordance with ~~Orange County Code~~ Chapter 24, Landscaping, Buffering and Open Space.

(c) Prior to the commencement of construction, a protective barrier shall be installed and maintained around any tree or stand of trees that are to be preserved until the completion of construction activities on site. The following shall be maintained at all times:

(1) For regulated trees, a barrier shall be constructed outside of the drip line of the tree(s), at points not closer than ten (10) feet from the base of the tree to be preserved using either metal rods, or nominal two-by-four (2 x 4) wooden stakes at least six (6) feet long, spaced a maximum of ten (10) feet apart, and connected with brightly colored ribbon or temporary fencing from stake-to-stake at a height of at least four (4) feet. For specimen and heritage trees, a barrier shall be constructed outside the drip line of the trees to be preserved using immovable chain link fencing with silt fencing installed around the outer perimeter of the fenced area. Signage, printed in both English and Spanish, shall be posted adjacent or attached to the barrier that notifies the reader that the trees within the barrier are protected from being disturbed in any way.

- (2) During site development, no soil shall be added, removed, or otherwise disturbed, nor shall any construction equipment, liquids, debris or materials, be located within the area.
- (3) Nothing may be attached to any trees to be preserved during the site development process, including wires, signage, or construction materials.
- (4) The protective barrier shall remain in place until all construction activity is completed on site, until a final landscaping inspection is made, or until authorization is granted by the county to remove the protective barrier.

~~(e) Protective barriers shall be placed at points not closer than six (6) feet from the base of the tree or at the radius of the drip line of the protected tree or stand of trees, whichever is greater. If circumstances exist that require encroachment of the drip line, the zoning manager may use discretion in allowing the barriers to be placed closer to the tree trunk. Each section of the barrier shall be clearly visible (flagged with brightly colored plastic tapes or other markers). No attachments or wires other than those of a protective or nondamaging nature shall be attached to any tree.~~

(d) The zoning manager or other county designees designee may conduct periodic inspections of the site. It is the responsibility of the property owner and the permittee to ensure that all provisions of this article are met.

~~(e) Impervious surfaces placed beneath the drip line of any preserved tree shall not exceed forty percent (40%) of the drip line area and shall not be placed closer than six feet from the trunk of any such trees without prior approval from the zoning manager or as allowed per Orange County Code section 24-4(a) for vehicular use areas. [See section 15-281(a) regarding administrative variances to save specimen trees.]~~

~~(f) All preserved trees shall have their natural soil level maintained. Tree wells and/or planter islands shall be provided, if necessary, to maintain the natural existing soil level of at least seventy-five percent (75%) of the drip line.~~

~~(eg) Trees~~ A tree planted or retained as required by this article shall not be trimmed or severely pruned, including in such a manner so as to appear stunted. Trees A tree shall be pruned as needed to maintain its health and form in such a way that retains or improves the natural form of that tree species. Improper pruning techniques shall be as determined by the zoning manager, consistent with the purpose and intent of this article. All tree pruning shall be conducted according to the latest edition of the Natural Arborist Association Standards American National Standards Institute (ANSI) A300.

~~Trees—A tree damaged or destroyed due to improper trimming or severe pruning shall be replaced in accordance with section 15-306 15-281(d).~~

- (1) A tree shall be allowed to grow in a shape natural to its species and shall only be pruned in accordance with the standards established herein to remove limbs or foliage that present a hazard to utility power lines or structures, to remove co-dominant leaders or multiple trunks to encourage the growth of one main trunk, or to remove dead, damaged or diseased limbs. In no case shall pruning result in a tree that is smaller than the minimum code requirements for spread or height at planting or is unnaturally shaped.
- (2) Pruning shall be in accordance with the latest edition of the ANSI publications (with the exception of section 2.3.1 of the ANSI A300 Standards, which requires that pruning be performed only by arborists or arborist trainees). A tree shall not be severely pruned, hat raked, hacked or headed back. A maximum of one-fourth (1/4) of a tree canopy may be removed from a tree within a one year period, provided that the removal conforms to the standards of crown cleaning, crown thinning, crown raising, vista pruning, and crown restoration techniques. Lifting of branches in excess of one-half (1/2) (fifty (50) percent) of the height of the tree is prohibited. A palm shall only be pruned to remove lower fronds that are chlorotic or dead, and there shall be no pruning of live green fronds above the horizon line.

Section 9. Amendment to Division 1 (Generally), Section 15-283. Section 15-283

(“Recommended, replacement, restricted, and specimen trees”) is amended as follows:

Sec. 15-283. ~~Recommended, replacement, restricted, and specimen trees.~~ Protected trees.

(a) ~~Recommended stock.~~ The following tree replacement species are suggested because they are native to the region and/or their proven performance in Central Florida. The following trees may be used as replacement stock without prior approval. All other replacement trees must be approved by the zoning manager.

Botanical Name	Common Name	CU (Canopy or Understory)
Acer rubrum	Red maple	U
Aesculus pavia	Red buckeye	U

Betula Nigra	River Birch	U
Carya floridana	Scrub hickory	E
Carya glabra	Pignut hickory	E
Carya glabra negacarpa	Coast pignut hickory	U
Carya illinoensis	Pecan	E
Cercis canadensis	Red Bud	U
Chionanthus virginicus	Fringe Tree	E
Cornus florida	Flowering dogwood	U
Cornus foemina	Swamp dogwood	U
Fraxinus pennsylvanica	Green Ash	E
Gordonia Lasianthus	Loblolly bay	U
Hex cassinæ	Dahoon holly	U
Hex opaca	American holly	U
Juniperus virginiana	Southern red cedar	E
Lagerstroemia indica	Crepe Myrtle	U
Ligustrum japonicum	Ligustrum	U
Liquidambar styraciflua	Sweet gum	E
Liriodendron tulipifera	Tulip tree	U
Magnolia grandiflora	Southern magnolia	E
Magnolia virginiana	Sweet bay	U
Nyssa sylvatica	Black Gum	E
Osmanthus americanus	Wild olive-Devilwood	U
Persea borbonia	Red bay	U
Pinus elliotti	Slash Pine	E
Pinus palustris	Long Leaf Pine	E
Pinus taeda	Loblolly Pine	E
Platanus occidentalis	Sycamore	E
Prunus angustifolia	Chickasaw plum	U
Quercus falcata	Southern Red Oak	E
Quercus geminata	Sand live oak	E
Quercus incana	Blackjack oak	U
Quercus inopina	Scrub oak	U
Quercus laevis	Turkey oak	E
Quercus Laurifolia	Laurel oak	E
Quercus michauxii	Swamp Chestnut Oak	E
Quercus myrtifolia	Myrtle oak	U
Quercus nigra	Water oak	E
Quercus shumardii	Spanish oak; Shumard Oak	E
Quercus virginiana	Live oak	E
Sabal Palmetto	Sabal or Cabbage Palm	U
Taxodium ascendens	Pond cypress	E
Taxodium distichum	Bald cypress	E
Ulmus alata	Winged elm; Cork elm	E
Ulmus parvifolia	Chinese Elm	E

(b) *Restricted stock.* The following trees may not be used as replacement stock within the unincorporated areas of the county due to their exotic invasive nature or otherwise undesirable characteristics: (Also includes all plants listed on the Florida Exotic Pest Plant Council list, categories I and II.)

Botanical Name	Common Name
<i>Albizzia julibrissin</i>	Mimosa
<i>Broussonetia papyrifera</i>	Paper mulberry
<i>Casuarina species</i>	Australian pine
<i>Enterlobium contortisliquum</i>	Ear tree
<i>Eucalyptus camuldulensis</i>	Cama eucalyptus
<i>Grevillea robusta</i>	Silk oak
<i>Jacaranda acutifolia</i>	Jacaranda
<i>Leucaena species</i>	Lead tree
<i>Melaleuca species</i>	Cajeput or punk tree
<i>Melia azedarach</i>	Chinaberry
<i>Sapium sebiferum</i>	Chinese tallow tree
<i>Schinus terebinthifolius</i>	Florida holly or Brazilian pepper
<i>Terminalia catappa</i>	Tropical Almond

~~(c) *Specimen trees.* Reasonable efforts should be made to preserve specimen trees (as defined in section 15-277). A permit to remove a specimen tree shall be granted when one or more of the following items do not allow for reasonable options to preserve the tree(s):~~

- ~~(1) Grading and drainage requirements for the site;~~
- ~~(2) The construction of a building;~~
- ~~(3) The installation of required utilities;~~
- ~~(4) Access to and immediately around proposed structures; or~~
- ~~(5) Parking lot requirements.~~

~~If approved for removal by the zoning manager, specimen trees shall be replaced at a ratio of two (2) to one (1) of the cumulative caliper of the trees to be installed to the cumulative DBH of the trees removed. Notwithstanding the ratios established immediately above, commercial lots under ten thousand (10,000) square feet shall be required to replace specimen trees at a one-to-one ratio of the cumulative caliper of the trees installed to the cumulative DBH of the trees removed.~~

~~(d) *Replacement.* Protected trees identified for removal on the tree survey, other than pine trees, shall be replaced by trees identified on the recommended stock list, section 15-283(a).~~

- ~~(1) Replacement of non-specimen trees shall be based on a one-to-one ratio of the cumulative DBH of the trees to be removed to the cumulative caliper of the trees to be installed. (For example: a 21" DBH tree to be removed shall be replaced by seven (7) 3" Caliper trees or three (3) 7" Caliper~~

trees, or any combination of replacement trees that total the total DBH removed.) Specimen trees shall be replaced on a two-to-one ratio of the cumulative caliper of the trees to be installed to the cumulative DBH of the trees removed. Notwithstanding the replacement requirements of this paragraph, section 15-283(d), no applicant may be required to replace more than ninety caliper inches per acre (prorated for fractional acres) for each development approval or permit, as the case may be, upon demonstration that the applicant has avoided the removal of protected trees to the maximum extent practicable. The replacement requirements of this paragraph shall not apply to pine trees harvested during a *bona fide* silvicultural operation.

- ~~(2) All replacement trees are to be Florida Nursery Standard #1 or better.~~
- ~~(3) Fifty percent (50%) or more of the canopy trees used for replacement shall be a minimum of ten (10) feet in height and have a caliper no less than three (3) inches. Twenty five percent (25%) or less of the canopy trees used for replacement shall be a minimum of eight (8) feet in height and have a caliper of no less than two (2) inches.~~
- ~~(4) Understory trees shall not make up more than twenty five percent (25%) of the total number of trees planted to meet the required replacement for the site. Understory trees used for replacement shall be a minimum of four (4) feet in height and have a caliper no less than one and a half inches.~~
- ~~(5) Replacement trees and preserved trees (three [3] inch caliper or greater) may count toward meeting the planting requirements of Orange County Code Chapter 24, Landscape Buffering and Open Space.~~
- ~~(6) Healthy preserved trees on site, including pine trees on the recommended stock list, shall count toward meeting the replacement requirements of this section per the following:
 - ~~a. Fifty percent (50%) or more of the preserved trees applied toward replacement credit shall be three inches in caliper or greater.~~
 - ~~b. Twenty five percent (25%) or less of the preserved trees applied toward replacement credit may be a minimum of two (2) inches in caliper.~~
 - ~~c. Twenty five percent (25%) of the preserved trees applied toward replacement credit may be understory trees as defined in this article.~~~~

~~d. The cumulative DBH of specimen trees preserved on site shall count two (2) to one (1) toward meeting the total replacement requirement.~~

~~(7) Trees located within a designated conservation area shall not count toward replacement requirements of this article.~~

~~(e) *Tree replacement trust fund.* There is hereby created a tree replacement trust fund, a separate fund of the county which shall receive all funds collected as tree replacement fees and mitigation fees.~~

~~(f) *Tree replacement fees.* Tree replacement fees shall be established by the board of county commissioners and updated as necessary to cover the cost of replacing the trees, including materials and labor.~~

~~(g) *Disbursement of funds.* Disbursement from the tree replacement trust fund shall be made only with the approval of the Board of County Commissioners, and only for the following purposes:~~

~~Primarily for purchase of trees for planting at a publicly owned and operated site or other community enhancement project such as the County Streetscape Program or as deemed appropriate by the Board of County Commissioners.~~

~~Secondarily for purchase of landscape materials or equipment, or the funding of educational programs which promote, enhance or implement the goals and objectives as established in section 15-276.~~

~~(a) Specimen trees. The following tree species at the stated DBH or greater are provided additional regulatory protections, consistent with this article:~~

- ~~(1) Quercus virginiana (Live Oak), twenty-four (24) inches;~~
- ~~(2) Ulmus alata (Winged Elm), twelve (12) inches;~~
- ~~(3) Magnolia grandiflora (Southern Magnolia), eighteen (18) inches;~~
- ~~(4) Quercus laevis (Turkey Oak), eighteen (18) inches;~~
- ~~(5) Pinus palustris (Longleaf Pine), eighteen (18) inches;~~
- ~~(6) Liquidambar styraciflua (Sweetgum), eighteen (18) inches;~~
- ~~(7) Taxodium distichum (Bald cypress), eighteen (18) inches.~~

~~(b) Heritage trees. The following tree species at the stated DBH or greater are provided additional regulatory protections consistent with this article:~~

- ~~(1) Quercus virginiana (Live Oak), forty (40) inches;~~

- (2) Magnolia grandiflora (Southern Magnolia), twenty-four (24) inches;

Section 10. Creating Division 1 (Generally), Section 15-284. Section 15-284

(“Enforcement and penalty.”) is created to read as follows:

Sec. 15-284. Enforcement and penalty.

(a) Enforcement official. Except as provided in section 15-279, it shall be unlawful for any person to violate a provision of this article. Each violation may be considered a separate offense and each tree removed, damaged, or destroyed may constitute a separate offense and violation of this article. Each day a violation of a provision of this article or a permit condition is allowed to continue, including the failure to replace any tree removed, damaged, or destroyed pursuant to the provisions of this article, may constitute a separate offense and violation of this article. The zoning manager shall be empowered to evaluate a site for compliance with this article and issue a citation or notice of violation. Any person adversely affected by an enforcement decision of the zoning manager may appeal such decision to the DRC consistent with section 15-281(c).

(b) Corrective action for violation. Where a violation of this article has occurred, remedial action must be taken to restore the property consistent with a permit for restoration approved by the zoning manager or authorization of the impacts in compliance with the article, if associated with a development project. Remedial action must be taken within sixty (60) days of receipt of a notice of violation or as approved by the zoning manager. At a minimum, a restoration plan shall include payment of the required permit application fee, required tree replacement, and required mitigation for any other damage to the property. Restoration plans must meet the specifications for replacement consistent with section 15-307. Failure to comply with required remedial action may be prosecuted in accordance with chapter 11 of this code.

(c) Penalty for violation. Generally, a violation of this article shall be subject to a penalty not exceeding the sum of five hundred dollars (\$500) per offense or violation. A violation determined to impact a tree shall be subject to one or more administrative penalties as follows:

- (1) \$19,090 per acre (fractional rounded up to the nearest one-fourth (1/4) acre) if DBH inches unknown;
- (2) \$106 per DBH inch if verified on-site;
- (3) \$318 per DBH inch for impacts to specimen trees;

(4) \$318 per DBH inch for impacts to any permit identified preserved tree;

(5) \$530 per DBH inch for impacts to heritage trees.

(d) No certificate of occupancy or certificate of completion shall be issued for any development until all applicable administrative fines or civil penalties, permits, and restoration plan conditions have been paid, accepted, approved, and verified by the county.

Section 11. Amendment to Division 2 (Land-Clearing Permit), Section 15-301. The title of Division 2 (“Land-Clearing Permit”), and Section 15-301 (“Required; application”), are amended to read as follows:

DIVISION 2. LAND-CLEARING LAND CLEARING AND TREE REMOVAL PERMITTING REQUIREMENTS

Sec. 15-301. ~~Required;~~ Applicability of requirements; application.

(a) Requirements. Except as provided in section 15-279, ~~no~~ land clearing, mass grading, fill or excavation shall occur in the county without first obtaining all applicable development approvals, including tree removal permits consistent with this article, and preliminary subdivision plan or development plan approval with concurrent tree removal approval. Mass grading permits are only permitted along with or as part of the approval of a development plan for site development and not as an individual permit or development plan to clear land that does not detail the development of the site. Tree removal permits shall be obtained from the zoning ~~division manager, except as provided in section 15-279.~~ The zoning manager may issue a tree removal permit for ~~specific trees~~ tree removal as requested on the application if two (2) or more of the following conditions exist, as applicable:-

(1) The tree constitutes an unreasonable impediment to development of a permitted use of the property by virtue of its location in a buildable area where structures or improvements are to be placed and no suitable alternatives exist; or

(2) For developed property, the tree is diseased, injured, in danger of falling, too close to an existing or proposed structure so as to endanger the structure with a high tree risk rating according to the tree risk management methodology, interferes with utility services, creates unsafe vision

clearances, or conflicts with other ordinances or regulations;
or

(3) The tree has been destroyed or has died; or

(4) The county requires the tree to be removed;

(5) The regulated tree proposed to be removed is too close in proximity to another regulated, specimen, or heritage tree to permit normal growth and development of the affected tree;
or

(6) The tree is not a specimen or heritage tree; or

(7) The tree cannot be relocated on or off the site.

(b) *Restricted stock.* If a tree considered restricted stock is present on property that receives a tree removal permit consistent with subparagraph (a) above, the permit will contain a condition that any restricted stock be removed within the approved limit of work prior to final inspection.

~~(b) As a condition of approval of a tree removal permit the project site shall not be left in a barren, undeveloped state without commencement of construction within ninety (90) days of land clearing activities or the appropriate buffers shall be provided in accordance with section 15-301(e). If construction plan, preliminary subdivision plan or development plan approval is not obtained with concurrent tree removal approval, undisturbed buffers shall be maintained in accordance with section 15-301(e). In all circumstances, adequate wind and water erosion control measures, including seeding and/or sodding are required per applicable county code.~~

~~(c) As a condition of a tree removal permit that is not concurrent with a preliminary subdivision plan, development plan or building permit, protection zones A and B (see section 15-301(e) shall remain undisturbed and in their natural state (trees, shrubs or ground cover cannot be removed) with the exception of an approved area for ingress and egress. Except for approved areas for ingress and egress, no protected trees shall be removed from the protected zones. If there is not sufficient existing vegetation to provide a visual screen of interior tree removal, a landscape screen shall be installed. This screen shall consist of a minimum of ten (10) feet tall, three (3) inch caliper canopy trees planted twenty five (25) feet on center and shrubs a minimum of thirty six (36) inches in height at the time of planting, planted thirty (30) inches on center. At the discretion of the zoning manager, an eight (8) foot tall opaque fence or a combination of said fence and landscape screen could be allowed to provide this visual barrier. All such vegetation shall be irrigated. Permittee must ensure survival until development occurs.~~

~~(d) An application for tree removal shall be obtained from the zoning manager.~~

~~(c1) For tree Tree removal requests concurrent with a preliminary subdivision plan, PSP, development plan or building permit: A preliminary subdivision plan, development plan ~~The PSP submittal~~ or building permit submittal shall not require a separate tree removal application, but ~~will be required to~~ shall include all information ~~per consistent with section 15-301(e)~~ Section 15-301(e). The number of copies of the submittal documents shall equal the number of copies required by the concurrent building permit or preliminary subdivision plan application.~~

~~(d2) For other Other tree removal permit applications (except as described in section 15-304):~~ Tree A tree removal permit application applications that does do not accompany a concurrent preliminary subdivision plan, development plan, or or building permit submittal shall application, shall include two (2) copies of the a tree survey and two (2) copies of the submittal documents all information consistent with section 15-301(e).

~~(e) Complete applications~~ Application requirements. At a minimum, a tree removal permit application shall include the following information:

- (1) ~~A sealed or certified tree survey prepared by a professional surveyor (as defined in section 15-277) consisting of a drawing (one (1) inch equals three hundred (300) feet or better). The tree survey shall have been completed within two (2) years from the date of the application. Each survey shall indicate the following information:~~
 - a. Property boundaries.
 - b. ~~Protected trees, as identified in the following protection zones: (These requirements apply to parent tracts.)~~
 1. ~~Protection Zone 'A' the area of the site located adjacent to any existing and opened public right-of-way. The depth of this area for parcels larger than ten (10) acres shall measure two hundred (200) feet; for parcels five (5) to ten (10) acres it shall measure one hundred fifty (150) feet; for parcels equal to or greater than one (1) acre and less than five (5) acres it shall measure one hundred (100) feet; and for parcels less than one (1) acre it shall measure fifty (50) feet. Protected trees in this area shall include all trees, on the recommended stock list, which are eight (8) inches DBH or greater. (For the purpose of~~

meeting the requirements of section 15-301(e) of this article, Zone 'A' shall remain a minimum of two hundred (200) feet.

~~2. Protection Zone 'B' the area of the site located along the side and rear property lines not including any portion of Protection Zone 'A.' The depth of this area for parcels larger than ten (10) acres shall measure one hundred (100) feet; for parcels five (5) to ten (10) acres it shall measure seventy five (75) feet; for parcels equal to or greater than one (1) acre and less than five (5) acres it shall measure fifty (50) feet; and for parcels less than one (1) acre it shall measure twenty five (25) feet. Protected trees in this area shall include all trees, on the recommended stock list, which are ten (10) inches DBH or greater. (For the purpose of meeting the requirements of section 15-301(e) of this article, Zone 'B' shall remain a minimum of one hundred (100) feet.~~

~~3. Protection Zone 'C' the area of the site not located within protection Zones 'A' or 'B.' Protected trees in this area shall include all trees, on the recommended stock list, which are twenty four (24) inches DBH or greater.~~

~~be. All protected regulated trees described in the protection zones above and proposed preserved trees, as defined in this article, shall be identified with the following information:~~

- ~~1. Location-Site location.~~
- ~~2. DBH.~~
- ~~3. Common name.~~
- ~~4. Identification of heritage and specimen trees, if appropriate.~~
- ~~5. Identification of existing and proposed easements.~~
- ~~6. Identification of any waterbodies, wetlands and other conservation areas.~~

~~(2) In addition to the tree survey provided above, each tree removal application or request shall indicate a site plan, landscape plan, or related plan shall be provided, showing the following information:~~

- ~~a. An indication of the surveyed trees proposed for removal.~~
 - ~~b. An indication of the trees to be preserved and protected.~~
 - ~~c. Identification of existing and proposed easements.~~
 - ~~d. Identification of waterbodies, wetland and other conservation areas.~~
 - ~~ae. An indication of existing Existing and proposed improvements to the site, including proposed grading plan (if not part of a preliminary subdivision plan or development plan).~~
 - ~~bf. Removal and replacement calculation, including a schedule of trees to be planted indicating species, size, caliper, and location per section 15-283, consistent with section 24-12(a).~~
- (3) Additional information as may be requested from the applicant in order to complete the required review.
- (f) General conditions for permit approval.
- (1) Regulated trees located in areas proposed as open space (pursuant to section 24-26) must remain.
 - (2) Heritage and specimen trees shall be preserved to the maximum extent practicable with minimal disturbance to the natural grade.
 - (3) Changes to the existing grade of a site that will impact regulated trees shall only occur when necessary to meet county code or other regulatory requirement. Regulated trees within the property line setback areas or buffer areas may only be removed if required fill or removal of grade exceeds twenty-four (24) inches from natural grade. If fill or the removal of grade is less than twenty-four (24) inches, the natural grade within the drip line of the affected trees must be left undisturbed.
 - (4) Trees may be relocated to other areas of a development site to accommodate grading challenges. Relocated trees may be subject to a monitoring period with success criteria.
 - (5) A project site must not be left cleared and in an undeveloped state following land clearing activities for more than ninety (90) days before commencement of construction.

Section 12. Amendment to Division 2 (Land-Clearing Permit), Section 15-302.

Section 15-302 (“Tree removal approval concurrent with residential preliminary subdivision plans (PSP); Development of residential subdivision”) is amended to read as follows:

Sec. 15-302. ~~Tree removal approval concurrent with residential preliminary subdivision plans (PSP); Development of residential subdivision.~~ Tree removal standards associated with residential, commercial, institutional or recreational development; preliminary subdivision plan (PSP) or development plan.

(a) No development, land clearing, or other tree cutting or tree removal shall be permitted without first obtaining a tree removal permit or residential, commercial, institutional or recreational preliminary subdivision plan or development plan ~~PSP approval~~ with concurrent tree removal approval from Orange County.

(b) The information set forth in section 15-301(e) shall be submitted with the preliminary subdivision plan ~~(PSP) or development plan.~~ The number of copies of the tree survey shall equal the number of copies required by the PSP application.

(c) ~~Tree removal authorization concurrent with development, land clearing, or other tree cutting shall be approved concurrent with preliminary subdivision plan or development plan for PSP approval by the board of county commissioners constitutes tree removal permission from roadways, easements and stormwater management areas. Subdivision construction plan approval, as defined in Orange County Code chapter 34-132, pursuant to section 34-132 constitutes tree removal permission for lot and block grading, in accordance with the approved application and tree survey. Residential Preliminary Subdivision Plan~~ A residential, commercial, institutional, or recreational preliminary subdivision plan shall include a tree replacement plan that will identify identifies how the developer will allocate the required replacement trees to be planted within the PSP, including cumulative caliper required to be planted on the individual lots, and a the timeframe within which it will be completed for completion.

(d) ~~In addition to submitting the required information per section 15-301(e) with the PSP or development plan, a detailed landscape plan indicating the species, size and location of replacement trees shall be submitted with the construction plan.~~

(d) Tree removal authorization associated with residential, commercial, institutional, or recreational development plans shall preserve specimen trees and heritage trees as follows:

- (1) Specimen and heritage trees may not be removed within property line setback areas or buffer areas, including wetland buffers.
- (2) If located within a proposed parking lot or near a stormwater pond, specimen and heritage trees must be incorporated into the overall design.
- (3) Heritage trees must be incorporated into the design of a single-family residential preliminary subdivision plan.
- (4) Specimen and heritage tree preservation shall not be required to exceed three (3) trees per developable acre or an average of three (3) trees per acre for properties larger than one acre, fractional, rounded up to the nearest one-third (1/3) acre.

Section 13. Amendment to Division 2 (Land-Clearing Permit), Section 15-303.

Section 15-303 (“Tree Removal Approvals concurrent with Commercial Development or Industrial Preliminary Subdivision Plans (PSP) or Development Plans; Development of commercial or industrial subdivision”) is amended to read as follows:

Sec. 15-303. ~~Tree Removal Approvals concurrent with Commercial Development or Industrial Preliminary Subdivision Plans (PSP) or Development Plans; Development of commercial or industrial subdivision.~~ Tree removal standards associated with industrial development; preliminary subdivision plan or development plan.

(a) No development, land clearing, or other tree cutting or tree removal shall be permitted without first obtaining a tree removal permit or preliminary subdivision plan or development plan PSP approval with concurrent tree removal approval from Orange County.

(b) The information set forth in section 15-301(e) shall be submitted with the preliminary subdivision plan or development plan (PSP). ~~The number of copies of the tree survey shall equal the number of copies required by the PSP application.~~

(c) Tree removal authorization concurrent with development, land clearing, or other tree cutting shall be approved concurrent with

~~preliminary subdivision plan or development plan for Preliminary subdivision plan approval by the board of county commissioners constitutes tree removal permission from roadways, easements and stormwater management areas. Subdivision construction plan approval, as defined in Orange County Code chapter 34-132, pursuant to section 34-132 constitutes tree removal permission for lot and block grading, in accordance with the approved application and tree survey. Commercial or Industrial Preliminary Subdivision Plans~~ Preliminary subdivision plans or development plans shall include a tree replacement plan that ~~will identify~~ identifies how the developer will allocate the required replacement trees to be planted ~~within the PSP~~, including cumulative caliper required to be planted on the individual lots, and ~~the timeframe within which it will be completed~~ a timeframe for completion.

(d) Reasonable efforts shall be made to preserve specimen and heritage trees as follows:

- (1) Specimen and heritage trees may not be removed within property line setback areas or buffer areas, including wetland buffers.
- (2) If located within a proposed guest or employee parking lot, specimen and heritage trees must be incorporated into the overall design.
- (3) Specimen and heritage tree preservation shall not be required to exceed three (3) trees per developable acre or an average of three (3) trees per acre for properties larger than one acre, fractional, rounded up to the nearest one-third (1/3) acre.

Section 14. Amendment to Division 2 (Land-Clearing Permit), Section 15-304.

Section 15-304 (“Tree removal permits for individual lots/parcels for single-family or duplex development”) is amended to read as follows:

Sec. 15-304. Tree removal permits for individual ~~lots/parcels~~ lots or parcels for single-family or duplex development.

(a) No development, land clearing, or other tree cutting or tree removal shall be permitted without first obtaining a tree removal permit or building permit with concurrent tree removal approval, unless exempted ~~per by~~ section ~~15-279(a)-15-279(a)(9)~~.

(b) Removal of ~~protected trees~~ a regulated tree shall require approval as follows:

- (1) ~~Pre-existing lots, as defined in this ordinance, A pre-existing lot or parcel for single-family or duplex development shall not be required to obtain get a tree removal permit. The previously approved preliminary subdivision plan Preliminary Subdivision Plan (PSP) constitutes tree removal approval. The building permit plot plan shall state the developable area of the lot. Prior to issuance of a certificate of occupancy, the minimum number of trees shall be preserved or planted in accordance with section 15-306 section 24-13.~~
 - (2) ~~Individual lots An individual lot or parcel for single-family residential or duplex development that were was approved as part of a preliminary subdivision plan with or without an approved tree replacement plan development shall not be required to obtain get a tree removal permit. They It shall be developed in accordance with the approved preliminary subdivision plan PSP and associated tree replacement plan, if applicable.~~
 - (3) ~~Lots or parcels A lot or parcel for single-family residential or duplex developments, which are development that is not a part of an approved preliminary subdivision plan, Preliminary Subdivision Plan (PSP), shall be required to obtain get tree removal approval; however, issuance of the building permit constitutes tree removal approval for the building pad, the driveway, on site on-site disposal system and fifteen (15) feet around the principal building pad. The issuance of a building permit for an accessory buildings, pools, decks, patios, walks, tennis courts and building, pool, deck, patio, walk, tennis court or utility services also constitutes requires tree removal approval. Prior to issuance of the certificate of occupancy, the minimum number of trees shall be preserved or planted in accordance with section 15-306 section 24-13. Any additional tree removal shall be subject to tree removal permit, fees, and replacement as required by this article, ordinance, in accordance with section 15-304(c).~~
- (c) ~~A tree removal permit application Applications for tree removal permits for an individual lots/parcels lot or parcel for single-family or duplex development shall identify the following items:~~
- (1) ~~All trees twenty-four (24) eight (8) inches DBH or greater, on a scaled drawing, including including their site location, DBH, common name, and, if present, any heritage and specimen trees.~~

- ~~a. Location.~~
- ~~b. DBH.~~
- ~~e. Common name.~~
- (2) ~~Tree removal calculations~~ calculations, as follows:
 - a. Identification, DBH, and location of all trees to be removed.
 - b. Cumulative DBH proposed for removal.
 - c. Removal and replacement ~~Calculations per~~ calculations consistent with section 15-306-15-283(d) for trees ~~twenty-four (24)~~ eight (8) inches DBH or greater.
- (3) ~~Identification of~~ The trees to be planted, including:
 - a. Location;
 - b. ~~Caliper.~~ Individual caliper; and
 - c. ~~Cumulative Caliper to be planted~~ caliper.
- (4) ~~The application shall identify the~~ The developable area of the lot.
- (d) ~~Tree protection shall be required in accordance with section 15-282.~~ Reasonable efforts shall be made to preserve specimen trees and heritage trees.

Section 15. Amendment to Division 2 (Land-Clearing Permit), Section 15-305.

Section 15-305 (“Tree removal permits for individual commercial, industrial, institutional, or multi-family lots or parcels”) is amended to read as follows:

Sec. 15-305. Tree removal permits for individual commercial, industrial, institutional, recreational, or multi-family lots or parcels.

(a) No development, land clearing, or other tree cutting or tree removal shall be permitted without first obtaining a tree removal permit or building permit with concurrent tree removal approval. Reasonable efforts shall be made to preserve specimen trees and heritage trees. In addition:

- (1) Specimen and heritage trees may not be removed within property line setback areas or buffer areas, including wetland buffers.
- (2) Specimen and heritage tree preservation shall not be required to exceed three (3) trees per developable acre or an average

of three (3) trees per acre for properties larger than one acre, fractional, rounded up to the nearest one-third (1/3) acre.

~~(b) Tree A tree removal permit application and documentation shall be submitted as set forth in section 15-301(e), with the plans submitted under the commercial development ordinance. Site plan approval shall constitute approval for tree removal from construction areas. In granting site plan approval, special attention shall be given to the preservation of specimen trees and other protected trees as described herein.~~

~~(c) Application material shall be submitted in accordance with section 15-301. The number of copies of the tree survey shall equal the number of copies of the site plan that are required by the commercial site plan review application.~~

~~(d) Removal and replacement calculations shall be shown on the plan per section 15-283.~~

~~(e) Tree protection shall be required in accordance with section 15-282.~~

Section 15. Repeal of Existing Section 15-306 in Division 2. Section 15-306

(“Residential lot trees (minimum trees required per lot).”) in Division 2 is repealed:

~~Sec. 15-306. Residential lot trees (minimum trees required per lot).~~

~~Prior to issuance of the certificate of occupancy, each residential lot shall contain at least the following minimum number of residential lot trees. These trees must be a minimum of eight (8) feet in height and at least two (2) inches in caliper. These trees may count toward replacement requirements if they are at least ten (10) feet in height and are at least three (3) inches in caliper. They must be selected from the recommended stock list. Replacement trees used on lots and preserved trees can count toward this requirement. Understory trees may make up to twenty-five (25) percent of the required number of trees:~~

- ~~(1) Lots less than 5,000 square feet shall contain a minimum of one (1) tree.~~
- ~~(2) Lot 5,000 to 7,999 square feet shall contain a minimum of two (2) trees.~~
- ~~(3) Lots 8,000 to 11,999 square feet shall contain a minimum of four (4) trees.~~
- ~~(4) Lots 12,000 to 19,999 square feet shall contain a minimum of five (5) trees.~~

- ~~(5) Lots 20,000 square feet or greater shall contain a minimum of six (6) trees.~~

Section 16. Creation of New Section 15-306 in Division 2. A new Section 15-306 (“Criteria for on-site tree replacement; offsite mitigation”) is created in Division 2 to read as follows:

Sec. 15-306. Criteria for on-site tree replacement; offsite mitigation.

(a) Generally. A tree proposed to be impacted pursuant to the standards under this article shall be replaced as follows:

(1) Criteria for replacement trees. A tree identified for removal on the tree survey shall be replaced by a tree identified on the recommended stock list in section 24-12. A replacement tree shall be Florida Number One grade or better, as established in the latest edition of the *Florida Grades and Standards for Nursery Plants, by the State of Florida, Department of Agricultural and Consumer Services.*

a. A minimum of seventy-five (75) percent of replacement trees shall be canopy trees. All canopy trees shall be a minimum of ten (10) feet in height and have a caliper no less than three (3) inches at the time of planting.

b. Understory trees shall not make up more than twenty-five (25) percent of the total number of replacement trees. Understory trees used for replacement shall be a minimum of seven (7) feet in height and have a caliper no less than two (2) inches at the time of planting. Three (3) palms at a minimum clear trunk height of seven (7) feet shall be deemed equal to one understory tree.

c. Replacement trees and preserved trees (three (3) inch caliper or greater) may count toward meeting the planting requirements of Chapter 24, Landscape Buffering and Open Space.

d. Regulated trees shall be replaced on a one-to-one (1:1) ratio of the cumulative DBH of the trees to be removed to the cumulative caliper of the trees to be installed. (For example: a twenty-one (21) inch DBH tree to be removed may be replaced by seven (7) three (3) inch caliper trees or three (3) seven (7) inch caliper trees, or any combination of replacement trees that total a minimum of the total DBH of the trees removed.)

- e. Specimen trees shall be replaced on a three-to-one (3:1) ratio of the cumulative caliper of the trees to be installed to the cumulative DBH of the trees removed.
 - f. Heritage trees shall be replaced on a five-to-one (5:1) ratio of the cumulative caliper of the trees to be installed to the cumulative DBH of the trees removed.
- (2) Notwithstanding the replacement requirements of this section, for undeveloped property, no applicant or property owner may be required to replace more than ninety (90) caliper inches per acre (prorated for fractional acres) for each development approval or permit, as the case may be, upon demonstration that the applicant has avoided the removal of regulated trees to the maximum extent practicable and met the minimum preservation requirements for specimen and heritage trees. Specimen trees or heritage trees, however, cannot be included in the ninety (90) caliper inch cap calculation.
- (3) Replacement credits. In order to receive credits toward mitigation of inches of regulated trees removed, replacement trees must be a minimum of three (3) inches caliper. In order to receive credits toward mitigation of inches of specimen trees or heritage trees removed, replacement trees must be a minimum of five (5) inches caliper.
- (4) Preservation credits. Healthy regulated trees preserved within an identified limit of work shall count toward meeting replacement requirements of this section as follows:
- a. A preserved tree must be a minimum of eight (8) inches DBH.
 - b. Twenty-five (25) percent of the preserved trees applied toward replacement credit may be understory trees.
 - c. Specimen trees and heritage trees preserved in excess of the requirements in section 15-301 will receive three-to-one (3:1) and five-to-one (5:1) (credit inches/inches removed) credit for trees removed, respectively.
 - d. A tree located outside the proposed limit of work may only count towards preservation if an easement protecting the tree from future impacts is recorded.
- (5) A tree located within a designated conservation area is not eligible in the replacement calculations set forth in this article.
- (6) Replacement tree species shall attempt to mimic beneficial tree species, such as scrub habitat species, found on the site

prior to removal, and shall comprise a variety of species, dependent on the number of trees cleared, but in no case shall any one tree species comprise more than fifty (50) percent of the replacement tree species:

- a. Ten (10) to twenty (20) trees removed – minimum three (3) different species;
- b. Twenty-one (21) to fifty (50) trees removed – minimum five (5) different species;
- c. Fifty-one (51) or more trees removed – minimum seven (7) different species.

(7) *Tree replacement fund.* All monies collected through tree replacement fees, mitigation fees, and enforcement fines or penalties shall be deposited in the County’s tree replacement fund. Tree replacement fees shall be established by the board of county commissioners and updated as necessary to cover the cost of replacing the trees, including material and labor.

(8) *Disbursement of funds.* Disbursement from the tree replacement fund shall be made only with the approval of the board of county commissioners, and only for the following purposes:

- a. Primarily for purchase of trees for planting at publicly owned and operated sites; community enhancement projects; and other projects deemed appropriate by the board of county commissioners; or
- b. Secondarily for purchase of landscape materials or equipment, or the funding of educational programs that promote, enhance or implement the goals and objectives as established in section 15-276.

Section 17. Creation of Section 24-12 in Article I of Chapter 24. Section 24-12, presently “Reserved” under Article I of Chapter 24, is created to read as follows:

CHAPTER 24

LANDSCAPING, BUFFERING AND OPEN SPACE

ARTICLE I. IN GENERAL

Sec. 24-12. ~~Reserved.~~ Recommended, replacement, and restricted trees.

(a) Recommended stock. The following tree replacement species are recommended because they are native to the region or they have proven performance in central Florida. Thus, the following trees may be used as replacement stock without prior approval. Any other replacement trees must be approved by the zoning manager.

<u>Botanical Name</u>	<u>Common Name</u>	<u>C/U (Canopy or Understory)</u>
<u><i>Acer rubrum</i></u>	<u>Red Maple</u>	<u>C</u>
<u><i>Aesculus pavia</i></u>	<u>Red Buckeye</u>	<u>U</u>
<u><i>Betula nigra</i></u>	<u>River Birch</u>	<u>U</u>
<u><i>Carya floridana</i></u>	<u>Scrub Hickory</u>	<u>C</u>
<u><i>Carya glabra</i></u>	<u>Pignut Hickory</u>	<u>C</u>
<u><i>Carya glabra negacarpa</i></u>	<u>Coast Pignut Hickory</u>	<u>U</u>
<u><i>Carya illinoensis</i></u>	<u>Pecan</u>	<u>C</u>
<u><i>Cercis canadensis</i></u>	<u>Red Bud</u>	<u>U</u>
<u><i>Celtis laevigata</i></u>	<u>Sugarberry</u>	<u>U</u>
<u><i>Chionanthus virginicus</i></u>	<u>Fringe Tree</u>	<u>U</u>
<u><i>Cornus florida</i></u>	<u>Flowering Dogwood</u>	<u>U</u>
<u><i>Cornus foemina</i></u>	<u>Swamp Dogwood</u>	<u>U</u>
<u><i>Fraxinus pennsylvanica</i></u>	<u>Green Ash</u>	<u>C</u>
<u><i>Gordonia lasianthus</i></u>	<u>Loblolly Bay</u>	<u>U</u>
<u><i>Ilex cassine</i></u>	<u>Dahoon Holly</u>	<u>U</u>
<u><i>Ilex opaca</i></u>	<u>American Holly</u>	<u>U</u>
<u><i>Juniperus virginiana</i></u>	<u>Eastern Red Cedar</u>	<u>C</u>
<u><i>Lagerstroemia indica</i></u>	<u>Crepe Myrtle</u>	<u>U</u>
<u><i>Ligustrum japonicum</i></u>	<u>Ligustrum</u>	<u>U</u>
<u><i>Liquidambar styraciflua</i></u>	<u>Sweet Gum</u>	<u>C</u>
<u><i>Liriodendron tulipifera</i></u>	<u>Tulip Tree</u>	<u>C</u>
<u><i>Magnolia grandiflora</i></u>	<u>Southern Magnolia</u>	<u>C</u>

<u>Magnolia virginiana</u>	<u>Sweet Bay</u>	<u>U</u>
<u>Nyssa sylvatica</u>	<u>Black Gum</u>	<u>C</u>
<u>Osmanthus americanus</u>	<u>Wild Olive-Devilwood</u>	<u>U</u>
<u>Persea borbonia</u>	<u>Red Bay</u>	<u>U</u>
<u>Pinus elliotti</u>	<u>Slash Pine</u>	<u>C</u>
<u>Pinus palustris</u>	<u>Longleaf Pine</u>	<u>C</u>
<u>Pinus taeda</u>	<u>Loblolly Pine</u>	<u>C</u>
<u>Platanus occidentalis</u>	<u>Sycamore</u>	<u>C</u>
<u>Prunus angustifolia</u>	<u>Chickasaw Plum</u>	<u>U</u>
<u>Prunus serotina</u>	<u>Black Cherry</u>	<u>U</u>
<u>Quercus falcata</u>	<u>Southern Red Oak</u>	<u>C</u>
<u>Quercus geminata</u>	<u>Sand Live Oak</u>	<u>C</u>
<u>Quercus incana</u>	<u>Bluejack Oak</u>	<u>U</u>
<u>Quercus inopina</u>	<u>Scrub Oak</u>	<u>U</u>
<u>Quercus laevis</u>	<u>Turkey Oak</u>	<u>C</u>
<u>Quercus Laurifolia</u>	<u>Laurel Oak</u>	<u>C</u>
<u>Quercus michauxii</u>	<u>Swamp Chestnut Oak</u>	<u>C</u>
<u>Quercus myrtifolia</u>	<u>Myrtle Oak</u>	<u>U</u>
<u>Quercus nigra</u>	<u>Water Oak</u>	<u>C</u>
<u>Quercus shumardii</u>	<u>Spanish Oak; Shumard Oak</u>	<u>C</u>
<u>Quercus virginiana</u>	<u>Live Oak</u>	<u>C</u>
<u>Sabal Palmetto</u>	<u>Sabal or Cabbage Palm</u>	<u>U</u>
<u>Taxodium ascendens</u>	<u>Pond Cypress</u>	<u>C</u>
<u>Taxodium distichum</u>	<u>Bald Cypress</u>	<u>C</u>
<u>Ulmus alata</u>	<u>Winged Elm; Cork Elm</u>	<u>C</u>
<u>Ulmus parvifolia</u>	<u>Chinese Elm</u>	<u>C</u>

(b) Restricted stock. The following trees may not be used as replacement stock due to their exotic invasive nature or other undesirable characteristics. (Restricted stock also includes all plants listed on the Florida Exotic Pest Plant Council list, categories I and II.)

<u>Botanical Name</u>	<u>Common Name</u>
<u>Albizia julibrissin</u>	<u>Mimosa</u>
<u>Broussonetia papyrifera</u>	<u>Paper Mulberry</u>
<u>Casuarina equisetifolia</u>	<u>Australian Pine</u>
<u>Cinnamomum camphora</u>	<u>Camphora</u>
<u>Enterlobium contortisliquum</u>	<u>Ear Tree</u>
<u>Eucalyptus camuldulensis</u>	<u>Eucalyptus</u>
<u>Grevillea robusta</u>	<u>Silk Oak</u>
<u>Jacaranda acutifolia</u>	<u>Jacaranda</u>
<u>Leucaena species</u>	<u>Lead Tree</u>
<u>Melaleuca species</u>	<u>Cajeput or Punk Tree</u>
<u>Melia azedarch</u>	<u>Chinaberry</u>

<u><i>Sapium sebiferum</i></u>	<u>Chinese Tallow Tree</u>
<u><i>Schinus terebinthifolius</i></u>	<u>Florida Holly or Brazilian Pepper</u>
<u><i>Terminalia catappa</i></u>	<u>Tropical Almond</u>

Section 18 **Creation Section 24-13 in Article I of Chapter 24.** Section 24-13, presently

“Reserved” under Article I of Chapter 24, is created to read as follows:

Sec. 24-13. ~~Reserved.~~ Residential lot trees (minimum trees required per lot).

(a) Prior to issuance of the certificate of occupancy, each residential lot shall contain at least the following minimum number of residential lot trees. These trees must be a minimum of eight (8) feet in height and at least two (2) inches in caliper. These trees may count toward replacement requirements if they are at least ten (10) feet in height and are at least three (3) inches in caliper. They must be selected from the recommended stock list. Replacement trees used on lots and preserved trees can count toward this requirement. Understory trees may make up to twenty-five (25) percent of the required number of trees.

- (1) A lot less than 5,000 square feet shall contain a minimum of one (1) tree.
- (2) A lot 5,000 to 7,999 square feet shall contain a minimum of two (2) trees.
- (3) A lot 8,000 to 11,999 square feet shall contain a minimum of four (4) trees.
- (4) A lot 12,000 to 19,999 square feet shall contain a minimum of five (5) trees.
- (5) A lot 20,000 square feet or greater shall contain a minimum of six (6) trees.

Section 19. Effective Date. This ordinance shall become effective on March 15, 2024.

ADOPTED THIS 12th DAY OF SEPTEMBER, 2023.



ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Jerry L. Demings*
for Jerry L. Demings
Orange County Mayor

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: *Jennifer Jan-Kinety*
Deputy Clerk