

1 **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY**
 2 **OF ORLANDO, FLORIDA AMENDING CHAPTER 60,**
 3 **ORLANDO CITY CODE TO UPDATE THE**
 4 **REGULATIONS REGARDING PROTECTED TREES;**
 5 **AMENDING CHAPTER 65, ORLANDO CITY CODE TO**
 6 **UPDATE THE SUBMITTAL REQUIREMENTS FOR**
 7 **VARIOUS DEVELOPMENT APPLICATIONS TO**
 8 **ENHANCE TREE PRESERVATION; PROVIDING**
 9 **LEGISLATIVE FINDINGS, AND FOR SEVERABILITY,**
 10 **CODIFICATION, CORRECTION OF SCRIVENER'S**
 11 **ERRORS, AND AN EFFECTIVE DATE.**

12
 13 **WHEREAS**, section 163.3202(1), Florida Statutes, requires that the city of
 14 Orlando, Florida (the "City"), adopt or amend and enforce land development
 15 regulations that are consistent with and implement the city's adopted
 16 comprehensive plan; and

17
 18 **WHEREAS**, section 163.3202(3), Florida Statutes, encourages the use of
 19 innovative land development regulations and requires that all land development
 20 regulations be combined into a single land development code for the city; and

21
 22 **WHEREAS**, from time to time, amendments and revisions to the city's
 23 adopted comprehensive plan (the "Growth Management Plan"), progress in the
 24 field of planning and zoning, or changes to state law make it necessary or desirable
 25 to amend the land development regulations of the city; and

26
 27 **WHEREAS**, at its regularly scheduled meeting of March 19, 2019, the
 28 Municipal Planning Board recommended to the Orlando City Council that the
 29 provisions of this ordinance are consistent with the applicable provisions of the
 30 city's adopted Growth Management Plan, are in the best interest of the public
 31 health, safety, and welfare, are in harmony with the purpose and intent of the Land
 32 Development Code of the City of Orlando, Florida (the "Land Development Code"),
 33 will not result in disorderly and illogical development patterns, and will not result in
 34 incompatible land uses; and

35
 36 **WHEREAS**, the Orlando City Council hereby finds and determines that this
 37 ordinance is consistent with the applicable provisions of the city's adopted Growth
 38 Management Plan, is in the best interest of the public health, safety, and welfare,
 39 is in harmony with the purpose and intent of the city's Land Development Code,
 40 will not result in disorderly and illogical development patterns, and will not result in
 41 incompatible land uses; and
 42

WHEREAS, the City seeks to increase the tree canopy across the City; and

WHEREAS, the City seeks to update the submittal requirements for land development applications in order to protect the tree canopy across the City; and

WHEREAS, the Orlando City Council hereby finds and declares that this ordinance is in the best interest of the public health, safety, and welfare; and

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA, AS FOLLOWS:

SECTION 1. CHAPTER 60, PART 2B, AMENDED. Chapter 60, Part 2B, Code of the City of Orlando, Florida, is hereby amended as follows:

2B. — TREE REMOVAL AND PROTECTION

Sec. 60.207 — Trees Protected by this Part.

Any existing tree with a diameter at breast height (dbh) of 6 inches or larger diameter, measured at a height of 4.5' above the ground shall be considered a protected tree; except for invasive exotic tree species, which should be replaced. It shall be unlawful for any person to directly or indirectly destroy, permanently injure or remove any such tree without first obtaining a Tree Removal Permit unless exempt by Florida Statutes. It shall further be unlawful to encroach into the minimum undisturbed area (see Sec. 60.211), without first obtaining a Tree Encroachment Permit from the Parks Official (or his or her designee) as required by Chapter 65.

Sec. 60.209. - General Requirements.

(a) Tree Removal Permit Required. Removal of non-exempt existing 4 6" dbh or larger trees shall be prohibited without first obtaining a Tree Removal Permit.

(b) Mitigation. Tree Removal Permits may be approved where site design modifications are not feasible (see Chapter 65), and shall require replacement with a number of trees or caliper inches of trees as determined by the Parks Official to be of equivalent environmental

benefit; or shall be remedied by a monetary value (as established in the fee permit schedule).

(c) Tree Removal Permit Fees. The Parks Official may review and develop every 2 years a fee schedule for tree removal permits. Fees shall be based upon tree species, tree size, and tree health. Changes in the fee schedule shall be approved by the City Council. The fee schedule shall include a review and recommendation of prescribed monetary penalties for the unlawful removal of trees. The Code Enforcement Board may utilize the recommended penalties for unlawful tree removal adopted by City Council resolution. A tree removal permit fee may be waived if it is determined by the Parks Official that the tree's health, structural integrity, or location pose a hazard, or that the tree is of an invasive, exotic species.

Sec. 60.210. - Specimen or Historic Trees.

The Parks Official shall be authorized to officially designate certain protected trees as Specimen or Historic Trees, based on their size, age, historic association, species or unique characteristics. Trees so designated within the City jurisdiction shall be protected without regard to their location.

(a) Specimen Trees. Specimen Trees are trees that have been identified by the Parks Official as being of outstanding mature size, excellent form, and a healthy example of the species. Specimen trees shall include Champion Trees identified by the Florida Division of Forestry and/or American Forests.

(b) Historic Trees. Historic Trees shall be described as any healthy tree with a trunk caliper of 30" dbh or more.

(c) Designation. Official designation as either a Specimen or Historic Tree shall require a site visit, tree evaluation, and a letter of evaluation and recommendation filed in the City of Orlando Tree Inventory. Designation as a Specimen or Historic Tree may occur in any of the following ways:

1. A property owner may request such designation at any time. To do so, the property owner shall submit an expert evaluation by a landscape architect, horticulturalist, urban forester, arborist, historian or other horticultural expert.

2. The Parks Official may make such designation as part of his or her review of any application for development under this Chapter, stating in writing the reasons for such designation. The applicant may appeal such

116 designation to the appropriate reviewing authority(s) for the application
117 in question.

118 3. The Parks Official may make such designation as part of an overall
119 tree protection program for the City. Such designation shall be subject
120 to approval by resolution of the City Council.

121 (d) Protection. The Parks Official may impose requirements for the
122 protection of Specimen and Historic Trees.

123 (e) Removal and Encroachment. The removal of or encroachment on
124 any designated Specimen or Historic Tree is prohibited unless
125 authorized under a valid tree removal or tree encroachment permit.

126 (f) The removal of a historic or specimen tree without a permit is deemed
127 to be an irreparable and irreversible violation. A fine of up to fifteen
128 thousand dollars (\$15,000) may be imposed for the removal of a historic
129 or specimen tree without a permit. The following factors shall be
130 considered in determining the amount of the fine:

131 1. The gravity of the violation;

132 2. Any actions taken by the violator to correct the violation; and

133 3. Any previous violations committed by the violator.

134 **** **SECTION 2. CHAPTER 65, PART 2, AMENDED.** Chapter 65, Part 2,
135 Code of the City of Orlando, Florida, is hereby amended as follows:

136 **Part 2. – Zoning Applications and Procedures**

137 **2D. – Conditional Use Permit**

138 **Sec. 65.288. – General Requirements.**

139 Along with the Conditional Use Permit application, the applicant shall
140 submit multiple copies of the following:

141 A Recent Boundary Survey including the location and species of each
142 tree with a diameter at breast height of 6" or greater within the building
143 site.

144 A Preliminary Site Plan: Prepared in accordance with the requirements
145 of Chapter 65, Part 2H, when required by the Planning Official.

Consent to Agents: If title to the property is not in the applicant's name and the property owner does not sign the application, one of the following must be submitted:

(a) Document signifying the owner's approval or consent; or

(b) Applicant's affidavit.

Alcoholic Beverage Sales: For any establishment requesting Conditional Use approval for Alcoholic Beverage Sales, as described in Chapter 58, Part 4B(2), the applicant shall submit the materials required by Section 58.713.

Other Information: Other additional material and information as the Planning Official may reasonably require.

Note: Also, preliminary building elevations and design concept for mixed residential-office development in the MXD-1 and MXD-2 districts, and for multi-family over 5 dwelling units in R-2B district.

Waiver by Planning Official. The Planning Official shall be authorized to waive any of the above requirements where appropriate.

2E. – Development Plan Review for Planned Development

Sec. 65.296. – General Requirements.

Along with the rezoning application, the applicant shall submit a Development Plan in multiple copies which shall include the following:

(f) ~~Information about the type and location of existing vegetation, including the approximate size and location of major tree groupings and those trees with a circumference of at least eighteen (18) inches, measured four (4) feet from the ground (aerial and on-site photographs may be used to show vegetation); and Specific or Special Purpose Survey, showing the location and species of all trees with a diameter at breast height of 6" or greater within ten feet of the building site;~~

2F. – Modification of Development Standards for Site Plan Approval

Sec. 65.302. – Where Modification of Standards Procedures Apply.

The Modification of Standards procedures of this Part shall apply to the following types of uses and activities:

(a) The procedures shall apply to all uses specified as permitted uses in the Table of Allowable Uses.

(b) The modification of standards requirements shall apply to the following land development standards:

9) Certain Accessory Buildings. Two story accessory buildings in residential zoning districts may have the same rear yard setback as the required side yard setback providing the following is found to be true:

i. The property is not located within an historic preservation district, and

ii. The second story heated and cooled space is not greater than 500 square feet, and

iii. No ~~major~~ Specimen or Historic trees are to be removed.

iv. The accessory structure is in compliance with all other codes.

2H. – Site Plan Review

MASTER PLAN

Sec. 65.331. – Master Plan Review.

Master plan review is intended to provide an initial review of a proposed

development and its basic development concepts prior to proceeding with a subdivision plat and/or final site plan review. It is intended that the level of information needed for this review will be general enough that the developer will not need final engineering or construction plan, yet be detailed enough to demonstrate compliance with the standards for master plan approval as provided at section 65.335 and with applicable appearance review standards as provided at Part 3, Chapter 62.

(a) Consistency with the Growth Management Plan. Master plans must to comply with the applicable goals, objectives, and policies of the City's adopted Growth Management Plan, including without limitation, the following:

1. Urban Design Goals 1, 2, 3, 4, 5, and 6, in order to incorporate the positive design elements of the Traditional City into new development both inside and outside of the Traditional City; and
2. Future Land Use Policies 1.1.1 and 1.7.2, in order to protect neighborhoods from uses not in keeping with their established character and uses; and
3. Future Land Use Policy 1.3.2, in order to encourage a more concentrated urban form capable of efficiently accommodating projected population.

Sec. 65.339. – Existing Conditions

(j) A Specific or Special Purpose Survey, which may be drawn on an aerial photograph and shall include:

1. Tree Cover approximate limits and generalized tree communities.
2. Location and species of each tree with a diameter at breast height of 6" or greater on or within 10 feet of the development site.
3. Location of jurisdictional wetlands.
4. Other Generalized Existing Vegetation, including identification of native plant communities.

SUBMITTALS- FINAL SITE PLAN

Sec. 65.348. - Existing Conditions

(l) A Specific or Special Purpose Survey, including surveyed topographic information, and location and species of each tree with a diameter at breast height of 6" or larger on or within ten feet of the building site.

Sec. 65.349 - Proposed Development

(f) A proposed tree protection plan meeting the requirements of Chapter 60, Part 2, and including the following:

1. All Items Required for Preliminary Site Plan (see Section 65.338—65.340 above).
2. The Undisturbed Areas which will surround each tree or tree grouping to be retained, including the area and dimensions of each.
3. A Parking Logistics Plan indicating locations where construction vehicles and employee vehicles will be parked on-site or off-site during the construction period, and certifying in writing that such vehicles will not be parked within the undisturbed areas shown in the tree protection plan.
4. Construction Lay-down Areas to be used during the construction period, and certification in writing that undisturbed areas shown in the tree protection plan will not be used for construction lay-down.

2J- Zoning Variance

Sec. 65.376. – General Requirements.

Along with the Administrative Variance application, the applicant shall submit the following:

An Accurate Up-to-Date Survey: As completed by a Florida Professional Surveyor and Mapper, in two copies. The survey must include all trees with a diameter at breast height of 6" or larger including the species.

A Site Plan: Showing the complete property, indicating the size of the existing and proposed buildings, spacing, all setbacks, individual parking spaces, access drives, existing trees to be retained or removed, and a floor plan of the proposed improvements.

Consent to Agents: If title to the property is not in the applicant's name and the property owner does not sign the application, one of the following must be submitted:

- (a) Document signifying the owner's approval or consent; or
- (b) Applicant's affidavit.

Sec. 65.377. - Additional Requirements for Tree Protection Variances.

A Specific or Special Purpose Survey: Including the location and species of each tree with a diameter at breast height of 6" or larger on the building site (~~see Chapter 60, Part 2A for standards relating to tree size~~).

A Proposed Tree Protection Plan: Including the following:

(a) ~~Existing Medium and Large Size Trees~~ Locations for each such trees proposed to be retained ~~and awarded tree points~~ in accordance with the requirements of Chapter 60, Part 2D, and the approximate undisturbed area which will surround each such tree or tree grouping. This information shall be shown on the site plan.

(b) Proposed Grade Changes on the building site which may adversely affect any existing tree with a diameter at breast height of 6" or larger to be retained.

(c) ~~(f)~~ Any Specimen Tree Designations being requested by the applicant (see Chapter 60, Part 2B).

Note: The indication of trees to be retained on a Site Plan indicates a commitment to attempt to protect that tree during the development process. It is recognized that some trees may die even with the best of efforts. Trees credited toward meeting the landscape requirements of any section of City Code are assessed at the time of Certificate of Occupancy, based on trees in good health at that time.

SUBMITTALS- ZONING VARIANCE

Sec. 65.385. - General Requirements.

Along with the Zoning Variance application, the applicant shall submit the following:

An Accurate Up-to-Date Survey: As completed by a Florida Professional Surveyor and Mapper, in two copies. The survey must include all trees with a diameter at breast height of 6" or larger.

A Proposed Site Plan: Prepared in accordance with the requirements of Part 2H of this Chapter, where required by the Zoning or Appearance Review Official (except where the application involves only variances to the sign regulations of Chapter 64). The site plan must show existing trees to be retained or removed.

SUBMITTALS-DESIGN VARIANCE

Sec. 65.387. - General Requirements.

Along with the Design Variance application, the applicant shall submit the following:

An Accurate Up-to-Date Survey: As completed by a Florida Professional Surveyor and Mapper, in two copies. The survey must include all trees with a diameter at breast height of 6" or larger.

A Proposed Site Plan: Prepared in accordance with the requirements of Part 2H of this Chapter, where required by the Zoning or Appearance Review Official. The site plan must show existing trees to be retained or removed.

SECTION 3. CHAPTER 65, PART 3, AMENDED. Chapter 65, Part 3, Code of the City of Orlando, Florida, is hereby amended as follows:

3-E – Minor and Major Subdivision Platting Procedures.

Sec. 65.431. - Application Submittal.

To be considered for a Major or Minor plat, an applicant shall submit an application and such other supporting materials (i.e. construction drawings, development plan, boundary and topographic surveys, tree surveys showing all trees with a diameter at breast height of 6" or larger, sketch of description, conceptual site plan, etc., as determined by the Planning Official. In addition, submittals for Minor plats shall also include all information required for a Final plat. The information shall be provided by the applicant to the City in graphic or written form, as deemed necessary by the Planning Official to satisfy the requirements herein. The number of copies to be submitted shall be determined by the Planning Official. If any of the items required to be submitted are not applicable to the proposed development, such item(s) may be omitted upon consent of the Planning Official. The applicant shall identify in writing the items missing and include a brief explanation of why the missing items are not relevant, not applicable or not submitted. The Planning Official shall be authorized to waive submittal requirements in the limited circumstance that he/she determines that a requirement is not (i) relevant or (ii) applicable to the application. No application shall be deemed accepted unless it is complete. All subdivision applications shall include contact information, including email address(es), for the owner(s) of the property to be platted. The Owner(s) shall be copied on all correspondence from City staff regarding the application. Deadlines for applications submittals shall be strictly followed.

SECTION 4. CHAPTER 65, PART 6, AMENDED. Chapter 65, Part 6, Code of the City of Orlando, Florida, is hereby amended as follows:

6-F – Tree Removal Permits.

Sec. 65.640. – Tree Removal Permit.

When a Tree Removal Permit is Required. Unless exempt by section 163.045, Florida Statutes, pPersons desirous of removing any tree with a diameter at breast height of 6" or larger from any real property shall make application to and on a form prescribed by the Parks Official and pay a nonreturnable fee for the area to be inspected. Fees for tree removal permits shall be set by resolution of the City Council from time to time in accordance with Section 60.209, and are hereby declared to be necessary for the purpose of processing the application and making the necessary inspections for administration and enforcement of this Part. The requirement for a tree removal permit is a requirement separate from and in addition to the requirement for obtaining any other approvals or permits whatsoever.

Review of Application. The application for a Tree Removal Permit shall be reviewed by the Parks Official and such City Departments responsible for the enforcement of the tree protection regulations of this Chapter. Such departments shall review and consider the standards and requirements of Chapter 60, Part 2, as well as the effect of the removal or relocation of a tree upon the drainage, topography and the natural resources prior to granting or denying the said application. Upon a review of the factors involved, the application shall be either granted or denied; in the event an application is denied, the reasons therefor shall be reported in writing to the applicant.

Conditions on Approval. The Parks Official may require, as a condition for the approval of an application for the removal of tree(s), that the person either relocate or replace said tree(s) with comparable substitutes somewhere within the building site. Such locations to be agreed to by the Parks Official in coordination with the Planning Official.

Sec. 65.641. – Tree Encroachment Permit.

When a Tree Encroachment Permit is Required. Persons desiring to place structures or impervious paving surfaces within ~~a 6-foot radius of the trunk perimeter of any medium or large size~~ the minimum undisturbed area, as required by Section 60.211, Orlando City Code, of any tree with a 6" or larger diameter at breast height shall make application to and on a form prescribed by the Parks Official and pay a nonreturnable fee for each tree to be inspected. Fees for tree encroachment permits shall be set by resolution of the City Council from time to time in accordance with Section 60.209, Orlando City Code, and are hereby declared to be necessary for the purpose of processing the application and making the necessary inspections for the administration and enforcement of this part. The requirement for a tree encroachment permit is a requirement separate from and in addition to the requirement for obtaining any other approvals or permits whatsoever, including tree removal permits on the same development site.

Sec. 65.644. – Appeals.

~~Any person who believes that he or she is adversely affected by a decision of the Parks Official in the enforcement or interpretation to this Part may appeal by filing a written notice of appeal to the Families, Parks, and Recreation Director~~

Any person aggrieved by a decision of the Parks Official (or his or her

designee) in the enforcement of this section may appeal by filing a written notice of appeal to the Families, Parks, and Recreation Director with a copy to the City Clerk within ten (10) days after receipt of such written decision. The City Clerk will schedule a hearing and notify the parties involved.

STANDARDS FOR TREE REMOVAL

Sec. 65.645. – General Requirements.

Unless permitted by Section 163.045, Florida Statutes, removal of trees with a 6" or larger diameter at breast height shall be prohibited. However, Tree Removal Permits may be approved where design modifications are not feasible (see Section 65.646 below) and one or more of the following circumstances exists:

Street Opening. The location of the tree prevents the opening of reasonable and necessary travel lanes in a street or alley;

Utilities and Drainage. The location of the tree or the maintenance of the existing land surface elevation within the undisturbed area of a tree prevents the construction of utility lines or drainage facilities which cannot feasibly be rerouted;

Property Access. The location of the tree prevents all reasonable access to the property;

Property Use. The location of the tree precludes reasonable use of the property. Reasonable Use of the Property is defined as the arrangement of the functional elements of the proposed development (particularly the buildings, structures, vehicular use areas, stormwater drainage systems, and utilities) shall be located so as to be integrated into and least disruptive to the existing natural environment, including preservation of existing trees found on the site;

Invasive Exotic Species. The tree is one of the species identified in section 58.091, Florida Statutes, or the Florida Exotic Pest Plant Council (FLEPPC) as a Category I or II invasive exotic species.

Hazards. The tree constitutes a hazard to life or property which cannot reasonably be mitigated without removing the tree; or

Poor Tree Health. The tree is dying/dead or is in poor health as defined by this Chapter, so that its restoration to sound condition is not practical; or has a disease which can be expected to be transmitted to other trees and to endanger their health.

Sec. 65.646. - Conditions of Tree Encroachment Permits.

The Parks Official shall be authorized to condition the approval of a Tree Encroachment Permit upon such measures as deemed appropriate to allow the retained tree to recuperate from shock caused by fill material or a drop in surface elevation, including but not limited to tree wells, drainage and aeration techniques, and use of specific soil types and fill materials. The crown of the tree should be pruned in proportion to the loss of roots, as directed by the Parks Official. The Parks Official shall be authorized to administratively alter the undisturbed area in order to accommodate a retained tree into a Bufferyard or Parking Lot Landscape, in coordination with a Tree Encroachment Permit.

A Tree Encroachment Permit is required for all activities in the undisturbed area except the following:

Sodding and Ground Cover. Placement of sod or other ground covers, and the preparation of the ground surface for such covers.

Occasional Parking After Development. The undisturbed area may be used for occasional parking after the issuance of a Certificate of Occupancy for the building site, when this is approved by the Zoning Official in accordance with Section 60.213.

Sec. 65.647 – Alternate Review Conditions and Requirements.

City Council may approve alternative requirements or conditions, or waive or reduce fees or penalties, on a case-by-case basis for a Public Benefit Use.

65.648. - Tree Pruning, Trimming, and Removal Practices

All tree pruning, trimming, and removal must meet International Society of Arboriculture ANSI Z133.1, Industry Safety Standards, and Tree Care Industry Association ANSI A300, Industry Task Standards.

SECTION 5. CODIFICATION. The city clerk and the city attorney shall cause the Code of the City of Orlando, Florida, to be amended as provided by this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

SECTION 6. SCRIVENER'S ERROR. The city attorney may correct scrivener's errors found in this ordinance by filing a corrected copy of this ordinance with the city clerk.

SECTION 7. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 8. EFFECTIVE DATE. This ordinance takes effect upon adoption.

DONE, THE FIRST READING, by the City Council of the City of Orlando, Florida, at a regular meeting, the _____ day of _____, 2020.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Orlando, Florida, by the city clerk of the City of Orlando, Florida, the _____ day of _____, 2020.

DONE, THE SECOND READING AND PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City Council of the City of Orlando, Florida, at a regular meeting, the _____ day of _____, 2020.

BY THE MAYOR OF THE CITY OF
ORLANDO, FLORIDA:

Mayor

ATTEST, BY THE CLERK OF THE
CITY COUNCIL OF THE CITY OF
ORLANDO, FLORIDA:

City Clerk

Print Name

THIS ORDINANCE DRAFTED BY AND
APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF ORLANDO, FLORIDA:

Assistant City Attorney

Print Name

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