

ORDINANCE NO. 09-1894

**AN ORDINANCE OF THE CITY OF LONGWOOD, FLORIDA,
AMENDING THE LONGWOOD DEVELOPMENT CODE,
ARTICLE III SECTION 3.5.5; PROVIDING FOR CONFLICTS,
CODIFICATION, SEVERABILITY AND EFFECTIVE DATE.**

WHEREAS, on May 6, 2002, the City Commission of the City of Longwood enacted the Longwood Development Code (Ordinance 02-1599), as was amended from time to time, pursuant to the requirements of Chapter 163.3202, and Chapter 166.041, Florida Statutes; and

WHEREAS, the protection and preservation of trees on public and private property within the City is not only desirable for aesthetic value, but essential to the present and future health, safety, and welfare of its citizens; and

WHEREAS, trees are a valuable property asset that can benefit an area economically; and

WHEREAS, a tree protection ordinance is necessary in order to promote community welfare through regulation of the removal and destruction of trees prior to and during construction and occupancy; and

WHEREAS, Chapter 163.3174 (4) (c), Florida Statutes, requires the Land Planning Agency to review proposed land development regulations, or amendments thereto, for consistency with the adopted Plan, as may be amended; and

WHEREAS, the Land Planning Agency (LPA) held a public hearing on May 13, 2009 to consider the amendment of the Longwood Development Code; made certain findings of fact regarding said amendments, determined the proposed changes are consistent and recommended the proposed ordinance be enacted by the City Commission;

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COMMISSION
OF THE CITY OF LONGWOOD, FLORIDA, AS FOLLOWS:**

3.5.5 Tree Protection Standards

A. Applicability

Trees protected under this Section are those with a trunk diameter of three (3) inches DBH (diameter at breast height) or more.

B. Tree Removal Permit

A permit shall be required for the removal, replacement, or alteration of trees not otherwise exempted from the provisions of this Section. Alteration includes damaging, topping, root pruning, cutting, hatracking, poisoning, or grade change that can be expected to adversely affect the health of protected trees and vegetation. Ordinary maintenance such as seasonal pruning or customary care shall not require a permit.

C. Tree permit requirements

1. All tree removal permit applications shall be filed with the Administrator, whether or not a site plan or other development approval is required. Review and approval shall be according to the procedures in Section 10.1.4.
2. The following information depicted on a tree survey shall be submitted with the application
 - a. Location and identification of all trees (using either common or botanical name), designating trees to be retained, altered, removed, relocated, or replaced. Groups of trees in close proximity may be designated as "clumps" or "dense tree cover" with the estimated number and type(s) of trees noted. Only those trees to be removed, relocated, or replaced must be named on the tree survey or site plan. The tree survey may show only that portion of the site directly involved or affected by the tree removal.
 - b. Location of all existing and proposed structures, improvements, or uses of the site.

- c. Proposed changes, if any, in site elevations, grades and major contours.
 - d. Location of existing or proposed utilities.
 - e. Location of irrigation system, or drawing notes to indicate method of maintenance.
- 3. If any approvals have previously been provided for the site, such as a site plan, development order, variance, or plat, evidence of such approval shall be provided.
 - 4. The applicant shall flag all trees to remain on a site in a manner sufficient to allow field verification of the tree survey and in such a manner that does not damage the tree.
 - 5. A copy of the tree removal permit shall be posted on site during construction and tree removal activities.

D. Criteria for approval of tree permits

- 1. Approval for tree removal shall only be granted on a developed lot or a lot with an application for development approval where such tree or trees unreasonably restricts the otherwise allowable use of the property.
- 2. The tree is diseased, injured, endangers existing structures, interferes with the safe provision of utility services, or creates a hazard to visibility for motorists. The City may provide a list of an arborists, foresters, landscape architects or other related professionals to ascertain the health of trees.
- 3. Replacement or relocation of trees approved for removal shall be required.
 - a. Where replacement trees are allowed, the total of the inches in diameter of the replacement trees shall be equal to or greater than the total of the inches in diameter of the removed trees.
 - b. Replacement trees shall be a size three (3) inches at DBH or greater. Plant materials used in conformance with the provisions of this Code shall conform to the Standard for Florida No. 1 or better as given in Grades and Standards for

Nursery Plants, State of Florida, Department of Agriculture and Consumer Services, Tallahassee.

- c. Fees collected in lieu of replacement shall be placed in an off-site tree mitigation account. The fees shall be established by the City Commission.
 - d. Trees removed illegally without a permit are subject to a three-to-one replacement, i.e. three inches replacement for each one inch removed. The established fee schedule would apply to this requirement if replacement is not feasible.
 - e. Any retained or relocated tree shall be replaced if the tree dies within one (1) year after final approval.
 - f. Replacement trees shall be of a similar or greater canopy and shade potential as the tree being replaced.
4. In considering the application for tree permit and a plan for relocation or replacement of removed trees, the Administrator may allow a 10% reduction in the otherwise required replacement trees (calculated in inches of diameter), based on the following criteria.
- a. Number, species and size of other trees and vegetation on site. Number, species, size, location and canopy of existing trees
 - b. Impact on stormwater runoff quantity and quality.
 - c. Character of the site and its environs.
 - d. Characteristics and amount of shrubs, grass, trees, or other vegetation proposed for the site.
- E. **Approved Trees** - The following trees are approved for installation as replacement trees, installation in required landscaped areas, and buffers. The City Administrator may also accept requests to use approved Florida-Friendly Landscaping species for replacement.

Approved Tree Species List	
Common Name	Botanical Name
American Holly	<i>Ilex opaca</i>
Bald Cypress (wet areas only)	<i>Taxodium distichum</i>
Bracken's Brown Beauty	<i>Magnolia grandiflora</i> 'Bracken's Brown Beauty'
Cathedral Oak	<i>Quercus virginiana</i> 'QVTIA'
Chickasaw Plum	<i>Prunus angustifolia</i>
Chinese Elm	<i>Ulmus parvifolia</i>
D.D. Blanchard Magnolia	<i>Magnolia grandiflora</i> 'D.D. Blanchard'
Devilwood	<i>Osmanthus americanus</i>
Drake Elm	<i>Ulmus parvifolia sempervirens</i> 'Drake'
East Palatka Holly	<i>Ilex attenuata</i> 'East Palatka'
Florida Basswood	<i>Tilia floridana</i>
Fringe Tree	<i>Chionanthus virginicus</i>
Highrise Oak	<i>Quercus virginiana</i> 'SDLN'
Live Oak	<i>Quercus virginiana</i>
Loblolly Bay (wet areas only)	<i>Gordonia lasianthus</i>
Palms (3 count as 1 tree)	(all upright species)
Pink Trumpet Tree	<i>Tabebuia heterophylla</i>
Red Bay	<i>Persea borbonia</i>
Redbud	<i>Cercis Canadensis</i>
Red Maple	<i>Acer rubrum</i>
Schumard Oak (Red Oak)	<i>Quercus shumardii</i>
Southern Magnolia	<i>Magnolia grandiflora</i>
Swamp Bay (wet areas only)	<i>Persea palustris</i>
Sweet Bay	<i>Magnolia virginiana</i>
Sweet Gum	<i>Liquidambar styraciflua</i>
Sweet viburnum	<i>Viburnum odoratissimum</i>
Sycamore (large spaces required, intrusive root structure)	<i>Platanus occidentalis</i>
Water Oak	<i>Quercus nigra</i>

Other Species for Landscape and Buffer Material	
Camellia	<i>Camellia japonica</i>
Graceful Bamboo	<i>Bambusa textilis gracilis</i>
Hetzi Juniper	<i>Juniperus Chinesis Hetzii</i>
Lemon Bottlebrush	<i>Callistemon citrinus</i>
Podocarpus	<i>Podocarpus macrophyllus</i> "Maki"
Southern Red Cedar	<i>Juniperus silicicola</i>
Wax Privet	<i>Ligustrum japonicum</i>

Wax Privet Recurve	<i>Ligustrum japonicum recurvifolium</i>
Weeping Bottlebrush	<i>Callistemon viminalis</i>

F. Credit for retained trees

Healthy trees retained on site and protected pursuant to this Section shall count toward any required trees for buffers, parking lot perimeter landscaping, parking internal landscaping, or other requirements. Plants on the Prohibited Plant Species List in this Section will not be counted for credit.

G. Exemptions

1. Emergency removal due to storm damage as well as removal by the City from the right-of-way shall not require a permit.
2. A photo of the damaged tree will need to be provided to the City at the time of a Tree Removal Permit application.
3. Single-family dwellings are exempt from the tree protection requirements of this Section and are not required to obtain a tree removal permit providing the dwelling is owner occupied.

H. Prohibited plants

The following plant species may be removed without a tree removal permit and are, therefore, exempt from the tree protection requirements of this Section. These trees are also prohibited and shall not be installed in any landscaped area or buffer area.

Prohibited Plant Species List	
Common Name	Botanical Name
Acacia	<i>Acacia spp.</i>
Air Potato Vine	<i>Dioscorea bulbifera</i>
American Mulberry/Red Mulberry	<i>Morus rubra</i>
Australian Pine	<i>Casuarina equisetifolia</i>
Brazilian Pepper Tree	<i>Schinus terebinthifolius</i>
Cajeput or Punk Tree	<i>Melaleuca leucodendra</i>
Camphor	<i>Cinnamomum camphora</i>
Castor Bean	<i>Ricinus communis</i>
Chinaberry	<i>Melia azedarach</i>
Chinese Tallow	<i>Sapium sebiferum</i>
Ear Tree	<i>Enterolobium cyclocarpum</i>

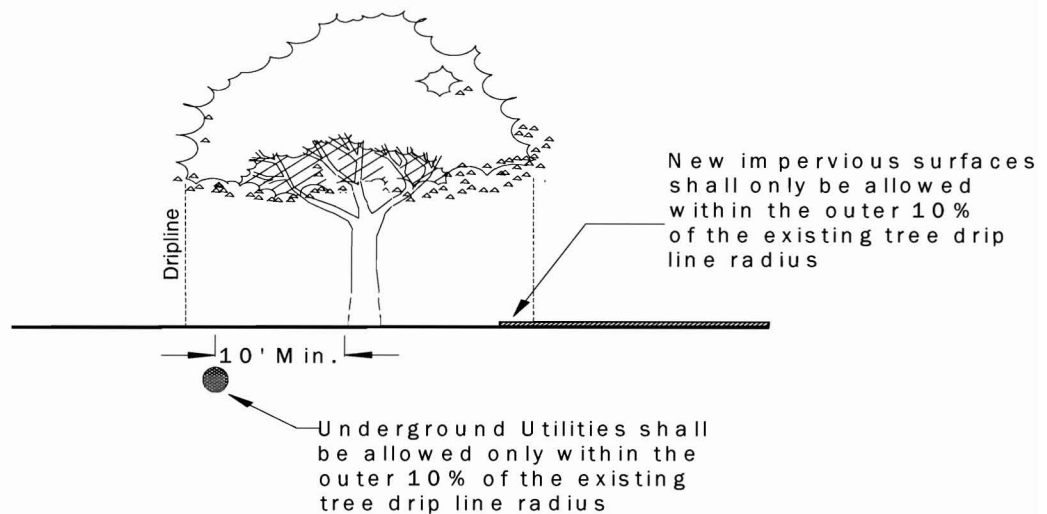
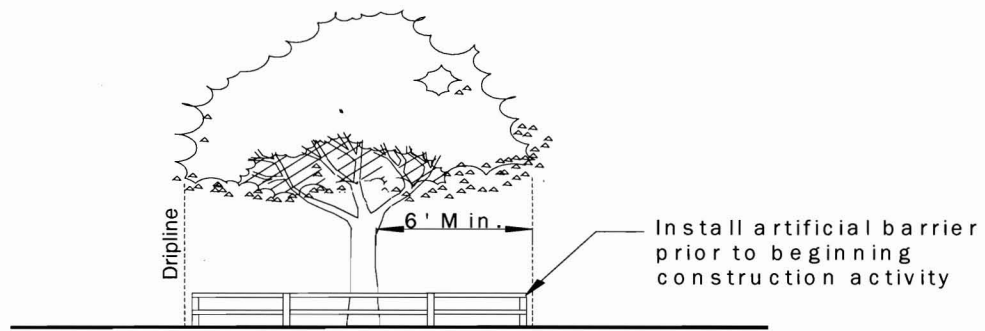
Eucalyptus	<i>Eucalyptus spp.</i>
Hydrilla (ponds/lakes)	<i>Hydrilla verticillata</i>
Jacaranda	<i>Jacaranda acutifolia</i>
Kudz Vine	<i>Paeraria lobate</i>
Mimosa	<i>Albizia julibrissin</i>
Monkey Puzzle	<i>Araucaria imbricata</i>
Paper Mulberry	<i>Broussonetia papyrifera</i>
Rice Paper Plant	<i>Tetrapanex papyriferus</i>
Rosewood	<i>Dalbergia sissoo</i>
Silk Oak	<i>Grevillea robusta</i>
Taro	<i>Colocasia esculenta</i>
Water Hyacinth (ponds/lakes)	<i>Eichhornia spp.</i>

I. **Maintenance**

1. Crown trimming shall be limited to removal of less than one-fourth (1/4) of the tree crown. Hatracking is prohibited.
2. Trees and other vegetation shall be maintained to ensure that such trees and vegetation continue to be viable and thriving.

J. **Protection during construction activities**

1. Each retained or installed tree shall be protected during all pre-construction and construction activities. The area to be protected shall extend to the **drip line of the tree**, but shall be no less than a six (6) foot radius from the trunk of the tree. Where trees are located in clusters or groups, the outermost drip line shall be the area of protection. The location of tree protection areas shall be depicted on the required landscape plan.



2. All development activities, including construction, grading, paving, compaction, trenching, installation of stormwater retention ponds, or the like shall be prohibited. Any existing brush and weeds to be removed inside the tree protection barrier shall be removed with hand tools only.
3. Wooden barriers shall be erected around all protected trees or other vegetation during the period of construction activity.
4. Barriers shall be constructed of upright posts and railings constructed of lumber at least two (2) inches by four (4) inches in cross-section marked by ribbon, flags, or other easily visible connecting material, and shall extend to or beyond the drip line of all protected trees on the property. Reference "Tree Protection Manual for Builders and Developers" from the Florida Department of Agricultural and

Consumer Services, Division of Forestry, for additional guidance on methods of tree protection during construction.

5. No excess soil or additional fill, building materials, or debris shall be placed within protective barriers.
6. No tractors or heavy machinery shall be allowed to work, park, or locate within barrier areas.
7. No attachments or wires, other than protective guy wires, shall be attached to any trees or shrubs within protective barriers.
8. Installation of artificial barriers such as protective barricades, fences, posts, or walls shall not destroy or irreversibly harm the root systems of protected trees. Footers for walls shall end at the point where larger roots are encountered, and the roots shall be bridged. Postholes and trenches located close to protected trees shall be adjusted to avoid damage to major roots.
9. Construction activity, including underground utilities and new impervious surfaces, shall be allowed only with the outer ten percent (10%) of an existing tree drip line radius. In no case shall construction activity occur closer than ten (10) feet from the center of the trunk of existing trees to be preserved.

K. Planting Requirements

1. Tree species with a height greater than 20 feet at maturity shall not be planted within a utility easement when power lines lie directly overhead.
2. No tree shall be planted within 10 feet of a fire hydrant or utility pole, within 15 feet of a driveway apron, within 20 feet of a traffic sign, or within 25 feet of an intersection in order to ensure adequate visibility. Should this requirement severely limit the location of trees on the property, the City Administrator may adjust these specifications.

L. Off-Site Tree Mitigation Account

1. There is hereby created an off-site tree mitigation account. All funds collected as tree replacement fees shall be administered by the City Administrator or designee.
2. Disbursements from the tree replacement account shall be made only for the following purposes:
 - a. Purchasing trees for planting and any associated costs in accordance with the city's tree planting program; or
 - b. Protection of trees and enforcement of this ordinance.
3. Fees for the off-site tree mitigation account are established by the City Commission in the schedule of fees.
4. Fees for the off-site tree mitigation account shall be reviewed annually by the City Commission to reflect the cost of living adjustments and/or market conditions and may be modified by approval of the City Commission. In establishing fees, the City shall consider the cost of material, labor, transportation, planting, watering, and mortality rate of replacement trees.
5. Trees authorized for off-site mitigation shall be planted in City-owned properties and parks, City rights of way, and preservation and conservation areas owned by the City. The City may also plant trees within the medians and rights of way of State and County roads where an interlocal agreement authorizes such plantings.
6. Fees for off-site mitigation shall be paid to the City prior to the issuance of any tree removal permit or building permit for new construction with an approved site plan or plat.

M. Establishment of a Tree Preservation Board

1. The City Commission may establish a tree preservation board by resolution.
2. Should the City Commission choose to designate the members of an existing board or agency as the Tree Preservation Board, the terms of office of the Tree Preservation Board will be concurrent with those of the existing board.

3. It shall be the responsibility of the Board to develop and/or maintain a written plan for the maintenance of trees, placement of trees, and will provide recommendations for programs related to the City's off-site tree mitigation account.
4. The tree preservation board may periodically conduct educational programs and/or publish educational material as to the importance of trees to the City of Longwood and the requirements of this section.

SECTION 4: All Ordinances, or parts thereof in conflict herewith, be and the same are hereby repealed.


SECTION 5: The provisions of this Ordinance are declared to be separable and if any section, paragraph, sentence or word of this Ordinance or the application thereto any person or circumstance is held invalid, that invalidity shall not effect other sections or words or applications of this Ordinance.

SECTION 6: This Ordinance shall take effect immediately upon its adoption.

FIRST READING June 1, 2009

SECOND READING: June 15, 2009

PASSED AND ADOPTED THIS 15th DAY OF June, 2009



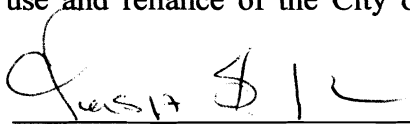
Haywood G. Bundy, Jr., Mayor

ATTEST:



Sarah M. Mirus, MMC, MBA, City Clerk

Approved as to form and legality for the use and reliance of the City of Longwood, Florida only.



Teresa S. Roper, City Attorney