

ORDINANCE 2015-19

AN ORDINANCE OF THE TOWN OF LADY LAKE, LAKE COUNTY, FLORIDA; AMENDING THE TOWN OF LADY LAKE LAND DEVELOPMENT REGULATIONS CHAPTER 10, SECTION 5 ENTITLED "TREE PROTECTION"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on December 2, 1991, the Town of Lady Lake adopted a Comprehensive Plan (Ordinance No. 91-21) pursuant to the requirements of Chapter 163, Part II, Florida Statutes and Chapter 9J-5, Florida Administrative Code; and

WHEREAS, on January 23, 1992, the Florida Department of Community Affairs determined that the Town of Lady Lake Comprehensive Plan was in compliance with the requirements of Chapter 163, Part II, Florida Statutes and Chapter 9J-5, Florida Administrative Code; and

WHEREAS, on August 15, 1994, the Town of Lady Lake adopted the Land Development Regulations of the Town of Lady Lake, Florida in accordance with the Town of Lady Lake Comprehensive Plan and the requirements of Chapter 163, Part II, Florida Statutes; and

WHEREAS, pursuant to the provisions of the Town of Lady Lake Land Development Regulations, the proposed amendments to the Land Development Code which is attached hereto as Exhibits "A" is recommended to the Town Commission of the Town of Lady Lake that said amendment be adopted; and

WHEREAS, the Town of Lady Lake has elected to amend Chapter 10 Section 5 of the Land Development Regulations finding it is in the best interests of the Town of Lady Lake and promotes the general welfare of its citizens.

BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LADY LAKE, FLORIDA:

Section 1. Amendment.

"The Land Development Code of the Town of Lady Lake, Florida," dated August 15, 1994 (the "Land Development Code") is hereby amended as provided below:

Chapter 10 Section 5 of the Land Development Regulations entitled "Landscaping and Tree Protection" is deleted and replaced in its entirety as set forth in Exhibit "A", attached hereto and incorporated herein.

Section 2. Severability.

If any section, sentence, clause, phrase or word of this Ordinance is for any reason held, or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not effect the remaining portions of this ordinance; and it shall be construed to have been the Town Commission's intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein; and the remainder of this Ordinance, after the exclusion of such part or parts, shall be deemed and held to be valid, as if such parts had not been included herein; or if this Ordinance or any provisions thereof shall be held inapplicable to any person, groups of persons, property, kind of property, circumstances or set of circumstances, such holding shall not effect the applicability thereof to any other person, property or circumstances.

Ordinance No. 2015-19**Section 3. Conflicts.**

All ordinances or part of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Section 4. Codification.

The provisions of this Ordinance shall be codified as and become part of the Codes of Ordinances, Town of Lady Lake. The sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section", "Article", or other appropriate word.

Section 5. Applicability.

This Ordinance does not have retroactive applicability and does not apply to applications filed prior to the effective date of this Ordinance.

Section 6. Effective Date. This ordinance shall become effective upon adoption.

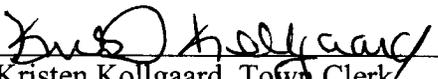
PASSED AND ORDAINED this 7th day of December, 2015, in the regular session of the Town Commission of the Town of Lady Lake, Lake County, Florida, upon the second and final reading.

TOWN OF LADY LAKE, FLORIDA



Ruth Kussard, Mayor

ATTEST:

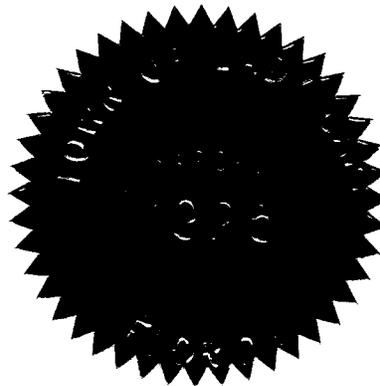


Kristen Kollgaard, Town Clerk

APPROVED AS TO FORM:



Derek Schroth, Town Attorney



Ordinance No. 2015-19**EXHIBIT "A"****Sec. 10-5. - Tree Protection.**

- a) Prohibitions. Unless exempted herein, it shall be unlawful and subject to the penalties provided herein for any person, directly or indirectly by another on his behalf, to:
- 1) Remove, relocate, destroy or damage any protected tree as defined herein on any site or tract (including single-family, residential lots) without first obtaining a clearing and tree permit or development order;
 - 2) Perform any land clearing or grubbing unless a clearing and tree permit, if required, has been issued and is posted onsite; or
 - 3) Perform tree removal, land clearing, grubbing, grading, excavation, construction, or to make or install any improvement upon any site or tract, regardless of the existence of valid permits or approvals for the given activity, unless each protected tree to be preserved pursuant to this chapter has been marked by a highly visible band, and unless all protected areas established pursuant to this chapter have been surrounded by a protective barrier,
 - 4) Attach anything to a protected, historic, or specimen tree other than supportive wires, braces or other similar non-injurious materials,
 - 5) Cause or allow the disposal of waste material such as paint, oil, solvents, asphalt, concrete, mortar or any other material harmful to the life of a protected, specimen or historic tree within the dripline of such tree or groups of trees.
 - 6) Use climbing spurs or other similar device to aid in the climbing of a live protected tree, where such device causes the puncture or tearing of tree bark.
 - 7) Introduce any type of poison or reactive material to a protected tree for the purpose of causing it to die or become weakened.
 - 8) Prune a protected canopy tree in a manner which will not allow the tree to reach a mature canopy spread. Excessive shearing, pruning or shaping includes but is not limited to hat racking, topping, poodle trimming, lion's tailing and pollarding. Code enforcement shall cite property owners who are found to have improperly trimmed or pruned protected canopy species upon a determination and report by the Town Arborist, or other designated arborist, the tree has indeed been improperly trimmed and sustained substantial injury and is not likely to recover. A Citation shall require that the tree be removed within 30 days of the determination of the violation and replaced in accordance with the after the fact tree permitting criteria based upon the specie and size of the tree which was removed. If the property owner wishes to appear before the Special Magistrate to contest the violation, an administrative fee of eighty-seven dollars (\$87.00) shall be assessed and the violation will be heard by the Special Magistrate. Upon a finding that the violation stands, the administrative fee shall be paid in addition to satisfying the tree replacement criteria, and additional liens may also begin to accrue for non-compliance with the order of the Special Magistrate's order. If the violation is dismissed, no administrative fees shall be paid to the Town.

These regulations apply to newly installed trees as well as established trees.

- b) Exemptions. None of the following exemptions shall apply to any upland native plant community conservation area or wetland conservation area. The burden of proving

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entitlement to any particular exemption shall lie with the person claiming use of the exemption, in the event the exempted activity ever becomes subject to an enforcement action. Notwithstanding anything to the contrary within this Code, the following activities shall be lawful without application or issuance of a clearing and tree permit:

- 1) The removal, trimming, pruning or alteration of any unprotected tree as defined herein or other vegetation as necessary for:
 - A) The clearing of a path, not to exceed four (4) feet in width, to provide access or view necessary to conduct a survey or site examination for the preparation of subdivision plats, site plans, or tree surveys; or
 - B) The clearing of a path, not to exceed ten (10) feet in width, to provide vehicular access necessary to conduct soil testing, provided that the clearing or removal is conducted under the direction of a Florida registered surveyor or engineer.
- 2) Routine landscape maintenance, such as trimming or pruning of vegetation, which is not intended to result in the eventual death of the plants, mowing of yards or lawns, or any other landscaping or gardening activity which is commonly recognized as routine maintenance or replacement.
- 3) The removal, trimming, pruning or alteration of any tree or vegetation in an existing utility easement or right-of-way, provided such work is done by or under the control of the operating utility company and said company has received all necessary licenses or permits to provide utility service within the easement.
- 4) The removal, pruning, trimming or alteration of any tree or vegetation for the purpose of maintaining existing access to a property.
- 5) Any activity conducted by a lawfully operating and bona fide commercial nursery, tree farm, agricultural operation, silvicultural operation, ranch, or similar operation pursuant to State and Town requirements, when the activity occurs on property owned or lawfully occupied by the person conducting said activity and is done in pursuit of said activity. This exemption shall include the purposeful removal of a tree or trees for their permanent relocation at another site undergoing development. When land clearing or tree removal has been performed under this exemption based upon the use of property for an agricultural or silvicultural operation, the following shall apply:
 - A) No land development order shall be approved for any non-agricultural or non-silvicultural use or improvement on the same site within two (2) years of the completion of such land clearing or tree removal.
 - B) Pertaining to silviculture, operations are encouraged to implement a State Division of Forestry approved management plan, including a reforestation plan for harvested lands.
 - C) Pertaining to silviculture and agriculture, operations within wetlands will need to secure a Notice of Intent from the St. Johns River Water Management District before any clearing or harvesting is initiated.
 - D) Pertaining to agriculture, operations are encouraged to implement a Soil and Water Conservation District approved conservation plan, including the use of Best Management Practices, as applicable to the specific area being cleared.
 - E) Trees proposed to be removed in order to construct improvements not reasonably related to bona fide agricultural and silvicultural purposes regardless

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of when or by whom construction is planned, are not exempt from these provisions.

- 6) Hazardous trees: If any tree is determined to be in a hazardous or dangerous condition so as to endanger the public health, safety or welfare and requires immediate removal authorization may be given by the Town Manager or his/her designee pursuant to the following procedures:
 - A) A report by a certified arborist or registered landscape architect stating the tree is in a hazardous or dangerous condition through disease or damage is required prior to removal and shall be submitted to the Town Manager or designee.
 - B) Replacement requirements herein required apply to any tree or group of trees removed.
 - C) Upon approval of the Town Manager or designee that the tree is in a hazardous or dangerous condition, the tree may be removed, however, the lot owner must continue to fulfill permit requirements.
 - 7) Any tree listed within the Undesirable (Prohibited) Tree list, regardless of size.
 - 8) Trees six (6) inches DBH or less, including those listed as Acceptable Plants in this chapter.
 - 9) Trees may be removed without a permit in an emergency situation, as determined by the Town Manager or his/her designee, when a tree is damaged by a hurricane, tornado, tropical storm or other weather event and the tree presents a danger to the public. Trees damaged in a hurricane, tornado, tropical storm or other weather event must be removed immediately after the event. Any tree damaged under this item that has not been removed within 60 days of the event will be required to obtain a permit under item No. 6) above.
 - 10) Stands of pine (*Pinus* spp.) planted or occurring naturally which would be used in a silvicultural activity are subject to compliance with the most current edition of the Florida Department of Agriculture and Consumer Services silvicultural best management practices (BMP's) described in *Silviculture Best Management Practices* published by the Florida Department of Agriculture and Consumer Services. This publication is hereby adopted and included by reference herein.
 - 11) The removal of any tree, historic or non-historic, in which the trunk of the tree measured at ground level is within ten (10) feet to the nearest adjacent wall of a permitted structure on the property, however, the lot owner still must obtain a permit in the amount of \$25.00. A root barrier shall be installed in lieu of the removal of trees near to sidewalks, driveways, and unscreened/non-enclosed patios. Where substantial damage has already occurred to such areas, a report from a Certified Arborist may be provided as justification for the removal of the tree if it is the recommendation of the arborist to remove the tree to avoid further damage.
- c) Clearing and tree permit.
- 1) Purpose. The purpose of these permits are to prohibit the destruction of natural vegetation and the changing of natural grades and drainage problems until a development order or development permit has been approved. Additionally, this section provides for protective measures for both vegetation and soils to be implemented prior to construction. All permits issued for tree removal shall require grinding of the stump to a level at or below grade.

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2) Removal of Historic Trees on Residentially Zoned Lots:

- A) Residential Single Family Lot and Manufactured Home Lot Owners shall be required to pay a fee of five hundred dollars (\$500.00), or as amended, to remove any historic tree on their property that will result in a total of the historic trees numbering less than the required amount of canopy trees for the lot size. Historic trees shall be given priority as the first to satisfy the minimum canopy tree requirements on all residential lots. If the property owner retains a number of historic trees equivalent to the minimum canopy tree requirements, historic trees in excess of the minimum requirements may be removed through a general tree removal permit in accordance with the fee schedule for the size of the tree, or as amended. Trees accommodated by an arborist report documenting that the tree is diseased or dying shall incur a \$25 fee (per tree), or as amended, for removal, regardless of the DBH measurement of the tree. Report shall be provided to Town Staff prior to removal. If the tree has been removed before Town Staff has received the report, fees and replacement of trees shall be done in accordance with the after the fact permit policy.

3) Commercial/Non-Residential Removal of Historic Trees:

- A) Commercial/non-residential property owners who desire to remove a historic tree shall file an application for a variance. If the applicant seeks a variance to remove more than one tree, the applicant may include as many trees as the applicant desires in one application. Should the applicant include more than one tree in the variance application, the variance fee is sufficient to cover all trees the applicant requests be approved for removal in the one application. Applications shall be brought before the Planning and Zoning Board for recommendation and then to the Town Commission for a final decision. An application for a variance shall not be required if the Town Manager or designee determines that based on an ISA (International Society of Arboriculture) certified or FAA (Florida Arborist Association) certified arborist's report that the tree is dead or so diseased that there is no likelihood of recovery.
- B) Should the Town Commission approve the applicant's request for tree removal, the applicant, shall at time of application for tree removal pay to the Town Tree Bank, three thousand six hundred dollars (\$3,600.00) for each thirty-six (36) inch DBH tree plus one hundred dollars (\$100.00) per additional inch over the thirty-six (36) DBH tree. This mitigation fee is to offset the loss of each historic tree.
- C) Developers of any non-residential or multi-family developments, requiring site plan approval are not required to submit an application for a clearing and tree permit but are required to submit a tree survey and landscape plans at the time of site plan submittal so that consideration may be given to the protection of native trees, historic trees, and vegetation.
- D) Developers of all new subdivisions shall be required to submit an application for a clearing and tree permit along with a tree inventory at the time of initial submittal of the preliminary subdivision plan so that consideration may be given to the protection of native trees, historic trees and vegetation.
- E) The tree removal permit, if issued, shall specifically identify which trees shall be permitted to be removed. Each tree permitted for removal shall be physically marked with an "X" on the bark being clearly visible from the public right-of-

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way, using brightly colored paint; or if a group of trees are permitted for removal, the outside perimeter trees of the group may be designated with red tape in lieu of each tree marking.

- F) Such permit shall automatically expire six (6) months after issuance. Trees not removed during the life of the permit may not be removed without the issuance of a new permit based upon a new application.

4) Tree Permit Fees:

6"-20" DBH	\$25.00 per tree (or group of trees on same property totaling 20"), or as amended
>20"-36" DBH	\$50.00 per tree, or as amended
>36" DBH	\$100.00 per tree, or as amended

*For lots which meet or exceed replacement requirement, replacement is not necessary if permits have been issued prior to removal.

5) After the Fact Permits:

- a) If a specimen tree (> 20") is removed each tree shall be replaced at a ratio of 2:1, in addition to the fee per tree removed.
- b) If a historic tree (> 36") is removed each tree shall be replaced at a ratio of 3:1, in addition to the fee per tree removed.
- c) Where replacement cannot be accommodated on-site, or desired, the property owner may contribute \$150 per tree to be replaced to the tree bank in lieu of onsite planting, provided the minimum lot requirement is satisfied.

6) Submittal requirements:

- A) An application for a clearing and tree permit shall be filed on the application provided by the Building Department. Completed applications shall be returned to the Building Department along with the appropriate permit fee, reasons for removal of trees and a scaled site plan.
- B) Provisions for replacement trees, as required in section 10-3, shall also be specified, including landscaping plans where required for site plans.

7) Criteria for issuance. No clearing and tree permit shall be issued unless the reviewer finds that at least one of the following criteria has been satisfied with respect to each existing tree over six (6) inch DBH that is to be designated for removal under the permit:

- A) The tree is located within an existing or proposed right-of-way. Note- streets and rights-of-way shall be located to avoid and minimize the loss of trees. See Site Development guidelines in section 10-4.
- B) The tree is located within an existing easement or stormwater maintenance shelf.
- C) The tree is located where its continued existence would unreasonably interfere with the physical construction of the improvements on-site or interfere with

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access to the site by construction equipment. See Site Development guidelines in section 10-4.

- D) The tree is located where it creates or will create a safety or health hazard, or a nuisance with respect to existing or proposed structures or vehicle or pedestrian routes, and relocation of the tree on the site is not a feasible alternative.
 - E) The tree is located where it interferes with the repair, or maintenance of existing utility services to the site.
 - F) Applicant has proved through multiple site plan alternatives that there is no alternate route or way of developing the site without the removal of the tree(s).
 - G) The tree is dying or dead so that its restoration to sound condition is not practical, or it has a disease which can be expected to be transmitted to other trees and to endanger their health.
 - H) The tree is located on a portion of the site to be used for construction of required parking areas or vehicular and pedestrian ingress and egress areas, provided reasonable effort has been made to preserve existing trees over six (6) inches DBH to the extent feasible under this criteria.
 - I) The tree is located on a portion of the site where structural development is proposed, provided reasonable effort has been made to preserve existing trees over six (6) inches DBH to the extent feasible under this criteria.
 - J) For all proposed improvements above, the owner shall demonstrate that no reasonable alternative route or development pattern exists through multiple site plan alternatives.
- 8) Permit Expiration. The clearing and tree permit, when issued, shall specifically identify which trees shall be permitted to be removed. Such permit shall expire either at the time of the issuance of the last certificate of occupancy for the subdivision or at the time of issuance of the certificate of occupancy for any commercial, industrial, multifamily or other structure. Trees not removed during the life of the permit may not be removed without the issuance of a new permit based upon a new application.
- 9) Tree removal requirements. A clearing and tree permit authorizes the removal of trees specified within the permit; however, it is not required that all trees specified within the clearing and tree permit be removed by the applicant.
- 10) It shall also be stated within the clearing and tree permit that all replacement trees shall be planted prior to issuance of the certificate of occupancy.
- 11) Replacement trees shall be located onsite. However, if not feasible, the Town Manager or his/her designee may allow planting off-site as a condition of the clearing and tree permit.
- 12) If a property has not begun development within nine (9) months of receiving development approval, re-vegetation shall be required to achieve the Landscaping Requirements of section 10-3.
- d) Replacement size criteria.
- 1) A replacement tree shall be an acceptable canopy tree as defined herein.
 - 2) All trees transplanted or planted pursuant to this ordinance and noted on a tree replacement plan shall be maintained in a healthy, living condition. Any such trees which die shall be replaced by the applicant within three (3) months of Town

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notification. The Town shall retain perpetual jurisdiction to ensure compliance with this section, and failure to maintain the landscaping shall constitute a violation of the code.

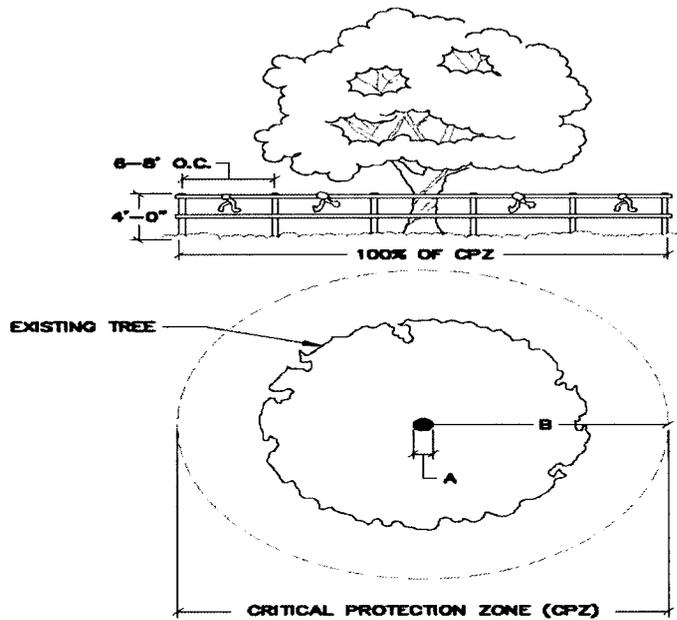
- 3) Palm trees shall not account for more than twenty-five (25) percent of the required replacement trees.
- e) Offsite tree replacement option. If replacement cannot be made on the subject property, the owner or applicant may be allowed to mitigate with replacement of the required trees on a designated recipient conservation or park property within the Town limits. The recipient property shall be acceptable to the Town and shall be suitable for the replacement trees. Mitigated replacement trees shall not count toward meeting minimum requirement of the recipient site for development purposes. The request to utilize this option shall be submitted to the Town Manager or his/her designee in writing and shall include the following justifications and information:
 - 1) Explanation why the trees cannot be replaced on site;
 - 2) A legal description and a copy of the property record information from the Lake County Property Appraiser for the proposed recipient site; and
 - 3) An Affidavit from the owner of the recipient site agreeing to the terms of accepting the mitigated trees as listed above. A conservation easement or similar legally-binding instrument approved by the Town shall be required to ensure that mitigation trees planted at the recipient site will be protected and maintained in perpetuity.
- f) Tree bank option. In cases where any or all replacement trees cannot be adequately accommodated on a site, or off-site where applicable, and demonstration of this fact has been confirmed, the developer/owner shall, in lieu of planting the trees, pay a fee to the Town to be placed in a tree replacement fund. Tree replacement and mitigation fees shall be established by Town Commission and shall be updated as necessary to cover the cost of replacing trees, including materials and labor. The payment to the Tree Bank is only for the portion of the required replacement trees that cannot be planted onsite. At a minimum, the replacement fee per tree shall be the average retail, installed cost as quoted by three local landscape contractors or plant nurseries plus an allowance for maintenance for one (1) year.
 - 1) Establishment. A Town of Lady Lake Tree Replacement Trust fund is hereby established as a depository for tree replacement and mitigation fees and monies. All monies deposited in the Tree Replacement Trust shall be deposited in a separate account established and maintained apart from the Town's general revenue funds and accounts.
 - 2) Dispersal of assets. The funds in said account shall be expended, utilized and disbursed for the planting of public trees, and to cover any other ancillary costs including but not limited to, landscaping, sprinkler systems and other items or materials necessary and proper for the preservation, maintenance, relocation or restoration of trees on any public or private conservation areas in Town of Lady Lake or its immediate environs. These monies may also be used to engage support staff such as landscape architects and additional personnel, if deemed necessary by the Town Commission, following established Town procedures.
- g) Tree protection during construction. The protection measures described in this subsection are based on those in the Tree City USA Bulletins published by The National Arbor Day Foundation: "How to Save Trees During Construction" (No. 8, 1998), "A Systematic

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Approach to Building with Trees" (No. 20, 1998), and "How to Protect Trees During Underground Work" (No. 35, 1998). These publications are hereby adopted and included by reference herein. These publications shall be used to supplement the required protection measures. They also provide information on the economic value of trees to developments and their incorporation into designs as well as guidelines on professional tree care, tree planting and tree transplanting.

- 1) Within the Town, it shall be unlawful for any person, during the construction of any structures or other improvements to place solvents, material, construction machinery or temporary soil deposits within the drip line of any tree not permitted to be removed and/or all trees that are retained or replaced pursuant to the clearing and tree permit. This provision includes soil that is placed in the drip-line permanently for the purpose of a grade change, unless the grade is changed according to the guidelines described in the publication Tree Protection Manual for Builders and Developers, Florida Division of Forestry, Department of Agriculture and Consumer Services Publications.
- 2) Protective barricades shall be constructed (prior to any clearing, grading or filling) around all trees and vegetation designated to remain. These barricades shall be located at the Critical Protection Zone (CPZ) of the trees or vegetation and shall meet the requirement of the Tree Protection Detail provided in this chapter. Where this cannot reasonably be accomplished, the applicant will locate the barricade as close to one (1) foot away from the tree trunk for every inch DBH as is practical or reasonable, when approved by the Town Manager or his/her designee, (e.g. twelve inches (12") DBH tree = twelve feet (12') radius tree protection circle, or 24' diameter). The barricade should be rigid and sturdy enough to survive the construction period.
- 3) In lieu of constructing the barriers, large areas containing protected trees where no land preparation or other development activities of any kind will occur, may be designated on a tree removal application. The designated area shall be protected by placing stakes a maximum of twenty-five (25) feet apart along the outside perimeter of the area and tying clearly visible plastic tape, ribbon or rope, from stake to stake. The perimeter line shall be outside of the drip line of any protected tree within the designated area.

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**TREE BARRICADE:**

2" X 4" WOOD FENCING WITH FLAGGING. THE BARRICADE SHALL BE PLACED SO AS TO PROTECT THE CRITICAL PROTECTION ZONE (CPZ).

A = DIAMETER OF PROTECTED TREE IN INCHES MEASURED 4-1/2 FEET ABOVE GRADE.

B = CRITICAL PROTECTION ZONE (CPZ) RADIUS. THAT AREA SURROUNDING A TREE WITHIN A CIRCLE DESCRIBED BY A RADIUS OF ONE FOOT FOR EACH INCH OF THE TREE'S DIAMETER (A) AS DESCRIBED ABOVE.

TREE PROTECTION DETAIL

- 4) Absolutely no fill, building materials, trash or other objects shall be placed inside these barriers. If fill is deposited adjacent to these areas, a suitable silt fence shall be constructed to prevent siltation of the barricaded area.
- 5) Barricades are to be adequately maintained and shall remain in place until their removal or modification is approved in writing. Failure of the applicant to properly locate and/or maintain the barricade may result in the issuance of a class I or class II citation (depending on the magnitude of the violation). Issuance of a stop work notice ("red tag") and the requirement that the applicant provide a restoration plan to the Town Commission (or some combination of these, as determined appropriate by the Town Manager or his/her designee).
- 6) No equipment, construction materials or debris shall be placed within the protective barrier.
- 7) No equipment shall be cleaned within a protective barrier or perimeter line.
- 8) Protective barriers shall remain in place until all construction activity is terminated.
- 9) No fuel, paint, solvent, oil, thinner, asphalt, cement, grout or any other construction chemicals of any kind shall be stored or be placed within the protective barrier.
- 10) No attachments or wires other than those of a non-damaging nature shall be attached to any tree.
- 11) To assure the protection of trees during construction activities, the developer shall avoid the following kinds of activities:
 - A) Mechanical injury to tree roots, trunks, and branches;
 - B) Injuries by chemical poisoning;
 - C) Injuries due to grade changes; or
 - D) Injuries due to paving.
- 12) Swaling and minor negative grade changes should always be designed around the dripline area as much as possible. Any exposed roots shall be trimmed and painted.

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Piping should be used where deep swales or ditches would require significant grade adjacent to trees.

- 13) Trenching of any type should be avoided in the dripline area. Where underground installations are required adjacent to the trunks of specimen trees, tunneling should be used. When trenching or tunneling near trees to remain, protective measures should be taken as specified in Tree Protection Manual for Builders and Developers.
 - 14) Tree wells of an approved design shall be constructed around all trees where over four (4) inches of fill is proposed within the dripline area. Design shall generally be as specified in Tree Protection Manual for Builders and Developers; published by the Florida Department of Agriculture and Consumer Services, Division of Forestry, latest edition. Specific details shall be approved by the Town Manager or their designee and where the Town deems appropriate.
 - 15) For palm trees, the posts shall be placed at points not closer than six (6) feet from the trunk.
- h) Remedial procedures.
- 1) Remedial site reclamation and tree care procedures shall be implemented by a certified arborist, when development activities have caused damage to either the tree or the tree's growing site, and that damage is repairable.
 - 2) Remedial site reclamation and tree care procedures shall be implemented by a certified arborist, when an existing tree is relocated and used to meet requirements of this chapter.
 - 3) If encroachment is anticipated or has happened, the following practices shall be employed to improve survivability.
 - A) Pruning.
 1. The pruning of a tree in anticipation of construction damage may provide compensation for potential root loss and produce an invigorating response.
 2. A tree that has suffered root damage becomes stressed because the root system no longer provides sufficient water and nutrients for the existing crown. This stress becomes evident with the appearance of "staghorns" or deadwood within the tree's crown. Once a tree has had construction damage, it is advisable to delay pruning one to three years until the deadwood becomes evident. Pruning for deadwood removal is then recommended.
 3. The removal of live plant tissue from a construction-damaged tree can accelerate the tree's decline.
 4. Pruning of root-severed trees may reduce the possibility of wind throw.
 5. Trees that have not been affected by construction activities can be pruned for maintenance of the tree's health, appearance, and safety, utilizing acceptable arboricultural practices.
 6. Pruning specifications as provided in the latest version of ANSI A300 shall be used in all pruning cases.
 7. The pruning of specimen trees may be subject to Planning and Development approval.

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8. All cabling work and other structural support supplemental systems shall be installed in accordance with the latest edition of ANSIA 300 American National Standard for Tree Care Operations - Trees, Brush, and Other Woody Plant Maintenance - Standard Practices on Support Systems and Cabling.
 9. Any lightning rod protection shall be installed in accordance with American National Standard for Tree Care Operations - Trees, Brush and Other Woody Plant Maintenance Standard Practices on Lightning Protection.
- B) Roots outside barricade. All roots outside of the protective barricade to be removed during the development shall be severed clean, and a two-inch layer of mulch shall be applied over the surface of exposed roots during development.
- C) Fertilizer.
1. Fertilizer applications will enhance the vigor of trees stressed by site disturbances, thereby promoting root development.
 2. Information regarding appropriate fertilizers and application rates may be obtained in the latest edition of ANSI A 300 - American National Standard for Tree Care Operations - Trees, Brush and Other Woody Plant Maintenance - Standard Practices on Fertilization.
- D) Soil.
1. A tree's ability for adequate root development, and ultimately its chances for survival, is improved with reclamation of the growing site.
 2. Wherever possible, the soil should be brought back to its natural grade.
 3. Unnecessary fill, compaction, erosion sedimentation, concrete washout, and construction debris should be removed.
 4. When machinery is required for site improvement, it is recommended that a "Bobcat" or similar lightweight, rubber-tired vehicle be used so as to minimize soil compaction.
 5. Compacted soil within the tree protection zone of trees should be aerated.
 - a. This is best accomplished with a two-inch-diameter auger.
 - b. Holes should be drilled to a depth of six (6) to twelve (12) inches, approximately two (2) to three (3) feet apart and radiating outward from the tree's trunk in a bicycle-spoke configuration.
 - c. This aeration technique is also recommended for areas affected by minor fill or the sedimentation of erosion materials.
 6. The air exchange, nutrient, and water-holding capacities of soils can be improved with soil amendments. This is best accomplished by backfilling holes from aeration, with mineral amendments such as perlite, vermiculite, isolite, and the like.
- E) A four (4) to six (6) inch layer of mulch material, such as pine straw, pine bark, or wood chips, spread within the tree protection zone of trees on construction sites is extremely beneficial. Benefits include:
1. Conservation of soil moisture;
 2. Reduced rainfall runoff and erosion;

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3. Reduced soil compaction from construction activities;
 4. Reduced competition from grasses and weeds;
 5. Increased soil fertility;
 6. Improved soil structure;
 7. Moderation of soil temperature, with a subsequent increase in root development activity.
- i) Tree preservation credit eligibility. To receive credit for the preservation of an existing protected tree, the following requirements must be met:
- 1) Fifty (50) percent of the land surface area within the dripline of the tree shall be naturally preserved or provided with pervious landscape material and shall be maintained at its original grade with no trenching or cutting of roots in this area.
 - 2) The tree shall not be damaged from skinning, barking or bumping which is potentially lethal to the tree.
 - 3) There shall be no evidence of active insect infestation potentially lethal to the trees.
 - 4) Impervious surfaces shall maintain minimum clearance from the bases of all trees to be protected. Trees fifteen (15) inches DBH or less shall have a minimum clearance of six (6) feet. Trees over fifteen (15) inches DBH up to twenty (20) inches DBH shall have a minimum clearance of nine (9) feet. Historic and trees over twenty (20) inches DBH shall have a minimum clearance of twelve (12) feet.
- j) Credit for preservation of existing trees. Credit shall be given for the preservation of existing trees which are properly protected and which meet the following criteria:
- 1) Such trees must meet the requirements of this chapter for location, spacing and type of tree.
 - 2) Any existing canopy trees which have a minimum six (6) inch DBH shall provide credit on a one tree inch-for-one tree inch basis for any tree requirements found herein. Groups of trees smaller than six (6) inch DBH are encouraged to be preserved as well. The total of all tree inches in the group shall be shown on the tree survey to receive the preservation credit.
 - 3) Each one (1) inch DBH of specimen canopy tree preserved shall correspond to a one (1) inch caliper per tree credit toward replacement tree stock. Regardless of caliper inch credit, the requirements of this chapter must be met.
 - 4) Each one (1) inch DBH of specimen canopy tree relocated shall correspond to a one (1) inch caliper per tree credit toward replacement tree stock. The tree(s) must receive remedial procedures as specified in this chapter (Remedial Procedures). The tree(s) are also subject to inspections by the Town and replacement if necessary as specified in this chapter (Maintenance).
- k) Violations and enforcement.
- 1) If the Town Manager or their designee finds that any of the provisions of this chapter are being violated, he or she may issue a stop work order and shall, in writing, notify the owner of the property and/or the general building contractor.
 - 2) Written notification shall indicate the nature of the violation and/or the action necessary to correct the violation.
 - 3) Such remedial action shall be in accordance with this section.

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- 4) The issuance of a clearing and tree permit, and the failure to substantially erect building improvements within twelve (12) months, combined with removal of trees in the buildable area and the building site, shall be deemed as violations of this chapter.
 - 5) Removal of a protected tree without approval is unlawful and is a second degree misdemeanor. In addition to code enforcement proceedings and criminal prosecution for a violation of this ordinance the Town may sue the violator for damages and injunctive relief. Any and all attorney's fees and costs incurred improving a violation in a civil proceeding shall be recoverable by the Town of Lady Lake.
 - 6) However, no penalty shall exceed the penalty provided by state law for similar offenses.
 - 7) Each tree removed or destroyed in violation of this chapter represents a separate offense.
 - 8) Each day of violation also represents a separate offense.
 - 9) Any person, firm, organization, society, association or corporation, or any agent or representative thereof, who commits, participates, or assists in such violation may each be found guilty of a separate offense and suffer the penalties herein provided.
 - 10) Notwithstanding the requirements of this section, tree replacement is a separate matter governed by Section 5 (Tree Protection).
- l) **Waivers and appeals.**
- 1) **Waivers.** Town Commission may grant a waiver to provisions of this chapter where the applicant demonstrates that the literal interpretation of the ordinance will deny the applicant reasonable use of property or where such waiver can be demonstrated to be consistent with purpose and intent of the ordinance.
 - 2) **Waivers.** Town Commission may grant a waiver to provisions of this chapter where the applicant demonstrates that existing trees will be protected and preserved to become a public benefit.
 - 3) **Appeals.** Any person adversely affected by the enforcement or interpretation of this article may appeal to the Town Commission within thirty (30) days, and all procedures specified in the zoning provisions of the Code shall be used for such appeal.
- m) **Contractor Registry.**

Landscapers and Tree Trimming/Removal Contractors may register with the Town of Lady Lake on an annual basis. The fee shall be \$30.00 per year, or as amended, to maintain registry. Decals shall be issued and affixed to each vehicle performing work in association with the company. There shall be a charge of \$5.00 per decal in excess of one (1) for the company's fleet. Decals shall be conspicuously displayed on the driver's side windshield for identification.