

## ORDINANCE NO. 1434

**AN ORDINANCE OF THE CITY OF MAITLAND, FLORIDA, AMENDING THE MAITLAND LAND DEVELOPMENT CODE ARTICLE 5 DEVELOPMENT STANDARDS, SECTION 5.6 RESIDENTIAL TREE PROTECTION; CLARIFYING THE DIFFERING PURPOSES OF THE MINIMUM TREE QUANTITIES AND THE REMOVAL AND REPLACEMENT STANDARDS; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Maitland has adopted minimum tree quantity standards for non-multi-family lots; and

**WHEREAS**, the City has also adopted tree protection and replacement standards; and

**WHEREAS**, there is an overlap between the minimum quantity standards and the removal and replacement standards; and

**WHEREAS**, it has come to the attention of City staff that there is some confusion among property owners related to the application of the minimum quantity standards in light of the limited exception to local tree removal permitting imposed on local governments by the State in Section 163.045, Florida Statutes; and

**WHEREAS**, in adopting minimum tree standards for non-multi-family lots, it was the intent of the City Council establish a minimum number of trees on such lots unrelated to replacement standards for removed trees; and

**WHEREAS**, in order to clarify the intent and operation of these related yet independent goals, the City Council finds it advisable to amend Section 5.6 of the Code of Ordinances.

**NOW, THEREFORE, BE IT ENACTED** by the City Council of the City of Maitland, Florida, that:

[NOTE: Underlined words constitute the additions to the existing text of the Maitland Code of Ordinances and asterisks (\*\*\*) indicate an omission from the existing text which is intended to remain unchanged.]

**SECTION 1.** Section 5.6, "Residential Tree Protection," is amended as follows:

### ***SECTION 5.6. RESIDENTIAL MINIMUM TREE QUANTITIES AND TREE PROTECTION***

#### **5.6.1. Purpose.**

The purpose of this subsection is to protect and enhance the tree canopy within the City by incorporating minimum standards for tree planting, as well as encouraging the protection of

certain healthy trees on non-multifamily residential development, promoting the removal of prohibited tree species, and requiring the replacement of removed trees as necessary to achieve the City's goals for thirty (30) percent tree canopy.

#### **5.6.23. Required Minimum Tree Quantities.**

All properties subject to this subsection shall provide either a minimum number of trees or minimum total diameter of trees in accordance with Table 5.6.2: Minimum Tree Coverage. The minimum diameter (inches dbh) at planting of a qualifying tree under this subsection shall be 3 inches. The minimum tree quantities provided herein are intended as minimum tree coverage standards, not as replacement standards to be used when a tree is removed. While tree removal may necessitate new plantings to remain consistent with this subparagraph, this subparagraph shall apply regardless of the reason a lot has fallen below minimum tree coverage standards and shall only apply to establish minimum tree quantities. The minimum tree quantities set forth herein shall be applicable regardless of whether any trees have been removed or application for tree removal is made. Any tree planted after October 14, 2024, intended to meet this minimum quantity shall be of a species included in the City of Maitland Approved Tree Stock List which has been adopted by resolution.

Table 5.6.2: Minimum Tree Coverage		
<u>Lot Size</u>	<u>Minimum Number of Trees</u>	<u>Minimum Diameter of Trees (inches dbh)</u>
8,000 sf or less	<u>2</u>	<u>7</u>
More than 8,000 and less than 16,000 sf	<u>4</u>	<u>14</u>
More than 16,000 and less than 24,000 sf	<u>7</u>	<u>22</u>
More than 24,000 and less than 36,000 sf	<u>10</u>	<u>31</u>
More than 36,000 and less than 43,560 sf	<u>12</u>	<u>37</u>
43,560 sf or more	<u>N/A</u>	<u>37 in per acre</u>

#### **5.6.23. Applicability.**

Except as otherwise provided by Section 164.045, Florida Statutes, as amended from time to time, No tree on a lot with a single-family, two-family (duplex), three-family, or four-family dwelling unit shall be cut down, destroyed, removed, topped, or relocated without first obtaining a tree removal permit in accordance with Sec.

2.5.3(e), Vegetation and Tree Removal Permit, and complying with the tree replacement or relocation requirements of this section.

#### **~~5.6.3. Required Minimum Tree Quantities.~~**

~~All properties subject to this subsection shall provide either a minimum number of trees or minimum total diameter of trees in accordance with Table 5.6.3: Minimum Tree Coverage.~~

Table 5.6.3: Minimum Tree Coverage		
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Lot Size	Minimum Number of Trees	Minimum Diameter of Trees (inches dbh)
8,000 sf or less	2	7
More than 8,000 and less than 16,000 sf	4	14
More than 16,000 and less than 24,000 sf	7	22
More than 24,000 and less than 36,000 sf	10	31
More than 36,000 and less than 43,560 sf	12	37
43,560 sf or more	N/A	37 in per acre

#### 5.6.4. Tree Relocation and Replacement.

If removal of a tree in accordance with this section would result in a lot falling below the minimum tree coverage standards in Table 5.6.3: Minimum Tree Coverage, When application is made to remove a specimen tree, the applicant shall be required to relocate the removed tree on site or plant new tree, in accordance with the following standards:

- (a) *Relocation.* Tree relocation is accomplished by replanting the tree being removed to another location on the lot. If a tree is relocated, no additional tree is required to be planted.
- (b) *Replacement.* Specimen trees shall be replaced by a similar species or by a species included in the City of Maitland Approved Tree Stock List, adopted by resolution, approved by the Public Works Director in accordance with the standards of Table 5.6.4: Specimen Tree Replacement Standards.

Table 5.6.4: Specimen Tree Replacement Standards		
Specimen Tree Size (DBH)	Replacement Requirement [1]	
	Number of Trees	Total Caliper
More than 24 to 35 inches	3	9 inches
More than 35 to 45 inches	4	12 inches
More than 45 inches	5	15 inches
NOTES:		
[1] Specimen trees shall be replaced by the listed number of trees or by replacement trees that add up to the required caliper, at the applicant's discretion.		

- (c) *Payment in-Lieu Alternative.* In-lieu of tree replacement, an applicant may pay into the City tree replacement account if determined by the Public Works Director, or designee, that it is impossible or impractical to plant the required replacements on the site from which trees were removed. The in-lieu payment shall be made in the amount ~~necessary~~ equal to the market price at the time of application of the minimum required replacement trees ~~to cover the cost of the replacement trees that would otherwise have been required as determined by the Public Works Director.~~
- (d) *Additional Standards.* If trees are relocated or replaced in accordance with subsections (a) or (b) above, the following additional requirements apply:

- (1) If the natural growth habit of a replacement tree is destroyed within a year of planting, or a relocated tree dies within one (1) year of being relocated, the applicant shall replace the tree.
- (2) If a replacement tree is planted within four (4) feet of a public sidewalk or other paved area, root barriers shall be installed in accordance with standard professional practice.

#### **5.6.5. Violations.**

- (a) Failure to comply with the standards in this section is a violation of this LDC and subject to the remedies and penalties in Article 9: Enforcement, Ch. 5.3, Code Enforcement, of the City Code, and Ch. 4.7, Article III, Special Magistrate, of the City Code.
- (b) Removal of trees except in accordance with Sec. 2.5.3(e), Vegetation and Tree Removal Permit, shall be considered a violation of this section and this LDC, and may be mitigated by one (1) or a combination of the following:
  - (1) Replacement equal to 1.50 times the cumulative DBH of trees removed and/or damaged to the cumulative caliper of trees to be installed, planted in a location conducive to their long-term survival and with a one-year guarantee of survivability, as approved by the City Manager;
  - (2) Providing an in-lieu payment into the City tree fund equal to three (3) times the cost of replacement on an inch-to-inch basis. If the precise DBH cannot be determined, the cost of replacement shall be determined by the City Manager based on the best estimate of the DBH of the removed or damaged tree; and/or
  - (3) Any other remedy deemed appropriate by the Special Magistrate.

**SECTION 2:** Conflicts. All ordinances or parts thereof in conflict herewith are and the same are hereby repealed.

**SECTION 3:** Severability. If any section, paragraph, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 4:** Codification. The provisions of this Ordinance shall be codified as and become and be made a part of the *Maitland Land Development Code*. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

**SECTION 5:** This Ordinance shall take effect immediately upon its adoption.

**ADOPTED** by the City Council of the City of Maitland, Florida, this 14<sup>th</sup> day of October 2024.

CITY OF MAITLAND, FLORIDA

BY:

  
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LORI WURTZEL  
VICE MAYOR

ATTEST:

  
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LORI HOLLINGSWORTH  
CITY CLERK

INTRODUCED ON FIRST READING THIS 23<sup>rd</sup> DAY OF SEPTEMBER 2024.

PASSED AND ADOPTED ON SECOND READING THIS 14<sup>th</sup> DAY OF OCTOBER 2024.