

1 **Summary of Ordinance**

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3 The purpose of this ordinance is to amend Sections 9.02.04 and 9.02.05, Lake County Code, Appendix E,
4 Land Development Regulations, entitled *Exemptions to Tree Removal Permit Requirements*, and *Criteria*
5 *for Issuance of Tree Removal Permits*, respectively, to comply with Section 163.045, Florida Statutes. The
6 purpose is to allow property owners to remove trees from their residential properties that have been certified
7 as dangerous by a certified arborist or licensed landscape architect without obtaining a permit.
8

9 Changes are shown as follows: ~~Strikethrough~~ for deletions and Underline for additions to existing Code
10 sections. The notation “* * *” shall mean that all preceding or subsequent text remains unchanged
11 (excluding any renumbering or relettering that might be needed).

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14 **ORDINANCE NO. 2019-____**

15
16 **AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LAKE**
17 **COUNTY, FLORIDA; AMENDING SECTION 9.02.04, LAKE COUNTY CODE,**
18 **APPENDIX E, LAND DEVELOPMENT REGULATIONS, ENTITLED *EXEMPTIONS TO***
19 ***TREE REMOVAL PERMIT REQUIREMENTS*; AMENDING SECTION 9.02.05, LAKE**
20 **COUNTY CODE, APPENDIX E, LAND DEVELOPMENT REGULATIONS, ENTITLED**
21 ***CRITERIA FOR ISSUANCE OF TREE REMOVAL PERMIT*; EXEMPTING THE**
22 **REMOVAL OF TREES ON RESIDENTIAL PROPERTIES IN ACCORDANCE WITH**
23 **SECTION 163.045, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY;**
24 **PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR FILING WITH THE**
25 **DEPARTMENT OF STATE; AND PROVIDING FOR AN EFFECTIVE DATE.**

26
27 **WHEREAS**, the Governor of Florida signed into law CS/HB 1159 which created Section
28 163.045, Florida Statutes; and

29
30 **WHEREAS**, Section 163.045, Florida Statutes, prohibits local governments from
31 requiring permits when residential property owners remove a tree certified as dangerous by an
32 arborist certified by the International Society of Arboriculture or a Florida licensed landscape
33 architect; and

34
35 **WHEREAS**, the amendments and modifications contained herein are in the best interest
36 of the residents of Lake County, Florida.

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38 **NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of
39 Lake County, Florida as follows:

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41 **Section 1. Recitals.** The foregoing recitals are true and correct and incorporated
42 herein by reference.

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44 **Section 2. Amendment.** Section 9.02.04, Lake County Code, Appendix E, Land
45 Development Regulations, entitled *Exemptions to Tree Removal Permit Requirements*, is hereby
46 amended to read as follows:

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48 **Sec. 9.02.04 Exemptions to Tree Removal Permit Requirements.** The following protected trees
49 and palms may be removed without a tree removal permit and required mitigation:

- 1 A. Excluding the number of trees required in Section. 9.01.08(A), any tree located on
2 a single-family residential lot, two (2) acres or less in size that also contains a
3 residential dwelling. All other trees that are not required for any landscape
4 requirement, provided such removal does not ~~to~~ exceed a combined cumulative
5 caliper of thirty (30) inches of Protected Trees within any one (1) three-year period.
- 6
- 7 B. Trees located within new or existing recorded or prescriptive public road or
8 drainage rights-of-way and easements that are to be removed as part of a Board of
9 County Commissioners' approved project. However, all protected trees removed
10 under this exemption Shall be avoided or relocated whenever feasible.
- 11
- 12 C. For trees located on nonresidential property, Any tree determined to be in a
13 hazardous or dangerous condition so as to endanger the public health, safety or
14 welfare and requires immediate removal. Authorization may be given by the
15 County Manager or designee pursuant to the following procedures:
- 16 1. Photo documentation of the hazardous tree(s) by property owner is required
17 prior to removal and Shall be submitted to the County Manager or designee.
- 18 2. If the tree, due to immediate danger, is removed prior to obtaining written
19 authorization, a letter and photo documentation demonstrating the immediate
20 danger Shall be submitted to the County Manager or designee within fifteen
21 (15) days of the removal.
- 22 3. The subsection expressly includes Heritage and Specimen Trees when such
23 trees endanger property or the public health, safety or welfare.
- 24 D. Trees located on residential property that present a danger to persons or property
25 so long as the property owner complies with the requirements set forth in Section
26 163.045, Florida Statutes.
- 27
- 28 DE. Agriculture and Silviculture. Bona fide farm operation on land classified as
29 agricultural pursuant to Section 193.461, Florida Statutes, as amended.
- 30 1. Silviculture operations on property zoned Agriculture, or legally existing
31 nonconforming agricultural uses, that have completed a Forestry Management
32 Plan and would qualify for classification as agricultural pursuant to Section
33 193.461, Florida Statutes, as amended.
- 34 2. Silviculture activities regulated through best management practices, interim
35 measures, or regulations developed through the Florida Department of
36 Environmental Protection, Florida Department of Agriculture and Consumer
37 Services, or water management district.
- 38 3. The activity is expressly regulated and permitted by the U.S. Army Corps of
39 Engineers or U.S. Environmental Protection Agency.
- 40 EF. Trees that have died through natural causes or diseased trees Shall not require
41 replacement or relocation. Trees killed or toppled by Acts of God such as lightning,
42 hurricanes and tornadoes Shall not be required to be replaced or mitigated unless
43 the tree(s) are required as part of a Development Order issued by Lake County.

1 **FG.** Trees removed as part of a county public works' project including but not limited
2 to stormwater management, reservoirs, or other major utility improvements. A tree
3 removal permit shall be required for municipal public works' projects located in the
4 unincorporated county.

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6 **Section 3. Amendment.** Section 9.02.05, Lake County Code, Appendix E, Land
7 Development Regulations, entitled *Criteria for Issuance of Tree Removal Permit*, is hereby
8 amended to read as follows:
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10 **Sec. 9.02.05 Criteria for Issuance of Tree Removal Permit.**

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12 A. Tree Removal Permit. A tree removal permit may be issued when one (1) or more
13 of the following circumstances exist:

- 14 1. Street opening. The location of a tree restricts the opening of a street or right
15 of-way. Streets and rights-of-way Shall be located to minimize the loss of
16 trees, especially specimen and heritage trees;
- 17 2. Utilities and drainage. The location of the tree restricts the construction of
18 utility lines or drainage facilities. Utility lines and drainage facilities shall be
19 located to minimize the loss of trees, especially specimen and heritage trees.
20 Utility providers shall also coordinate with adjacent property owners and seek
21 alternative easements to the extent practicable so as to minimize the loss of
22 trees;
- 23 3. Property access. The location of the tree prevents access to the property. Exit
24 and entry Shall be located to minimize the loss of trees, especially specimen
25 and heritage trees;
- 26 4. Property use. The location of the tree restricts use of the property consistent
27 with all other County and state codes, statutes, ordinances, and resolutions,
28 and site location modifications are not feasible or reasonable;
- 29 5. Hazards. The tree constitutes a potential hazard to life or property that cannot
30 be mitigated without removing the tree; provided, however, that a permit shall
31 not be required if exempt under Section 9.02.04 of these regulations.
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38 B. Tree Removal Procedure. The tree removal permit, when issued, Shall specifically
39 identify which trees Shall be permitted to be removed. Each tree permitted for
40 removal Shall be physically marked with an "X" using brightly colored paint or
41 surveyor's tape; or if a group of trees are permitted for removal, the outside
42 perimeter trees of the group may be designated with brightly-colored rope or tape
43 in lieu of each tree. Such permit Shall automatically expire twelve (12) months after
44 issuance. Trees not removed during the life of the permit may not be removed
45 without the issuance of a new permit based upon a new application.

1 C. Removal not required. Tree removal permits merely authorize the removal of trees
2 specified therein. Nothing in this Section Shall be construed to require the removal
3 of protected trees by the permittee.

4
5 **Section 4. Severability.** If any section, sentence, clause, or phrase or word of this
6 Ordinance is for any reason held or declared to be invalid, unconstitutional, inoperative or void by
7 any court of competent jurisdiction, then said holding shall in no way affect the validity of the
8 remaining portion of this Ordinance; and it shall be construed to have been the Commissioners'
9 intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein; and
10 the remainder of this Ordinance, after the exclusion of such part or parts shall be deemed and held
11 to be valid, as if such parts had not been included herein; or if this Ordinance or any provisions
12 thereof shall be held inapplicable to any person, groups of persons, property, kind of property,
13 circumstances or set of circumstances, such holding shall not affect the applicability thereof to any
14 other person, property or circumstances.

15
16 **Section 5. Inclusion in the Code.** It is the intent of the Board of County
17 Commissioners that the provisions of this Ordinance shall become and be made a part of the Lake
18 County Code and that the sections of this Ordinance may be renumbered or relettered and the word
19 "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in
20 order to accomplish such intentions.

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22 **Section 6. Filing with the Department of State.** The Clerk shall be and is
23 hereby directed forthwith to send an electronic copy of this Ordinance to the Secretary of State for
24 the State of Florida in accordance with Section 125.66, Florida Statutes.

25
26 **Section 7. Effective.** This Ordinance shall become effective as provide for by law.

27
28 Enacted this _____ day of _____, 2019.

29
30 Filed with the Secretary of State _____, 2019.

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33 ATTEST: BOARD OF COUNTY COMMISSIONERS
34 OF LAKE COUNTY, FLORIDA

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36
37 _____
38 Gary J. Cooney, Clerk of the
39 Board of County Commissioners
40 of Lake County, Florida

37 _____
41 Leslie Campione, Chairman

42 This _____ day of _____, 2019.

43 Approved as to form and legality:

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45
46 _____
47 Melanie Marsh, County Attorney