DIVISION 4. TREES

Sec. 50-161. Definitions.

For the purpose of this division, the following words shall be defined as provided in section 50-71:

Agricultural use.
Caliper.
Clearing.
Deteriorated.
Developer.
Development.
Historic tree.
Local government.
Lot.
Multifamily/commercial lot.
Municipality.
Person.
Residential lot.
Site development plan.
Specimen tree.
Subdivision.
Tree.
Tree survey.

(Ord. No. 88-38, § I[(400.00), 12-1-88; Ord. No. 98-12, § II, 7-23-98]

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 50-162. Penalty.

Violations of this division are punishable as provided in section 1-7.

Sec. 50-163. Purpose and intent.

The county council finds and determines that it is in the best interest of the public health, safety and welfare to protect, preserve trees and enhance tree cover in the county. The items of value of trees are many and varied and include but are not limited to the following:

(1) Trees are valuable producers of oxygen, a necessary element to the survival of man, and serve to reduce the environmentally dangerous carbon dioxide concentration in the air.

(2) The leaves of the trees trap and filter out ash, dust and pollen in the air.

1Cross reference(s)—Tree permits, app. A, § 1001 et seq.
(3) Trees may reduce wind velocity and noise levels.
(4) Trees may prevent erosion by stabilizing the soil through their root system and by breaking the force of raindrops pounding upon soil surfaces.
(5) Trees reduce the quantity of surface runoff and reduce the percentages of impervious surfaces.
(6) Trees help purify water by removing the nutrients from waters passing through the ground from the surface to the groundwater table.
(7) Trees provide shade and transpire water which helps to moderate temperatures and cleanse the air.
(8) Trees provide food, shelter and essential habitat for wildlife.
(9) Trees provide valuable visual aesthetics and psychological contrast to the manmade urban environment.
(10) Trees are a valuable asset and increase the economic and aesthetic value of developed and undeveloped properties.

Therefore, for the reasons described in this section, the county council has determined that it is necessary to enact this division as minimum environmental standards for tree protection throughout the county.

(Ord. No. 88-38, § II(401.00), 12-1-88)

Sec. 50-164. Adoption of standards by municipalities.

The governing body of each affected municipality in the county, shall, no later than January 31, 1999, submit to the county council its ordinance containing the standards in this division; however, prior to this date, a municipality may elect to authorize the county to administer this division within said municipality. Thereafter, the county council shall review said ordinance for compliance with this division and, after said review, inform the municipality whether or not said municipal ordinance is in compliance with this division. If such ordinance of the municipality is not enacted or submitted on this date or is not in compliance with this division, then, notwithstanding any provision of Ordinance No. 88-3 (the land development code, appendix A to this Code) to the contrary, the county council may enforce article X, pertaining to tree protection, of the county land development code, Ordinance No. 88-3, as amended, in said municipality or may enforce this provision as provided in section 50-75.

(Ord. No. 88-38, § II(411.00), 12-1-88; Ord. No. 98-12, § III, 7-23-98)

Sec. 50-165. Stop work orders.

A local government shall provide for issuance of a stop work order to any person found in the act of cutting down, destroying, damaging or removing trees in violation of this division.

(Ord. No. 88-38, § II(409.00), 12-1-88)

Sec. 50-166. Punishment of violations.

A local government shall provide for the punishment of violations of this division.

(Ord. No. 88-38, § II(410.00), 12-1-88)
Sec. 50-167. Permit required for tree removal.

It is hereby unlawful for any person to cut down, move, remove or destroy through damaging, or to authorize the same, any tree as defined in this division without obtaining a tree removal permit from a local government in accordance with the provisions of this division.

(Ord. No. 88-38, § II(402.00), 12-1-88)

Sec. 50-168. Administrative procedures and review standards for permit applications, variances and appeals.

The local government shall provide for applications, variances and appeals procedures in connection with the issuance of a permit in conformity with this division. Also, said local government shall provide for the standards of review of said applications, which may include but are not limited to:

1. The extent to which the actual or intended use of the property requires cutting down or destruction of trees.
2. The desirability of preserving any tree by reason of its size, age or some other outstanding quality, such as uniqueness, rarity or status as a historic or specimen tree.
3. The extent to which the area would be subject to increased water runoff and other environmental degradation due to removal of the trees.
4. The heightened desirability of preserving or enhancing tree cover in densely developed or densely populated areas.
5. The need for visual screening in transitional areas or relief from glare, blight, commercial or industrial unsightliness, or any other affront to the visual or aesthetic sense in the area.
6. The effect that changes in the natural grade will have on the trees to be protected and preserved.

(Ord. No. 88-38, § II(403.00), 12-1-88)

Sec. 50-169. Exemptions from permit requirement.

(a) Notwithstanding any other provision of this division to the contrary, any person may cut down, destroy or replace or authorize removal of one or more trees whose trunks lie wholly within the boundaries of property owned by said person without obtaining a tree removal permit from the local government in accordance with the following:

1. Said property is classified (zoned) by the local government for single-family or two-family use, and a single-family or two-family dwelling or mobile home is located on said property, and it is owner-occupied;
2. Said property contains agricultural uses as defined in this division;
3. Said property contains trees which may have been determined by the local government to be deteriorated as result of age, hurricane, storms, fire, freeze, disease, lightning or other acts of God;
4. Said property is within an existing public or private right-of-way or maintenance easement and contains trees which must be removed or thinned to ensure the safety of the motoring public and to maintain visibility of oncoming traffic at intersecting public streets, or such other trees which may disrupt public utilities, such as power lines, drainageways or similar public needs; however, as may be
determined by the local government, specimen trees in public or private rights-of-way or utility easements may be removed only upon the issuance of a tree removal permit, and said tree so removed shall be replaced with a replacement tree, and the location of said replacement tree shall be as determined by the local government;

(5) Said property contains trees which are planted and grown for sale to the general public or some public purposes, with licensed plant or tree nurseries and botanical gardens included in this exemption; or

(6) The following species are exempted from the provisions of this division:

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Botanical Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian pine</td>
<td>Casuarina equisitifolia</td>
</tr>
<tr>
<td>Australian pine</td>
<td>Casuarina lepiconphloia</td>
</tr>
<tr>
<td>Brazilian pepper</td>
<td>Schinus terebinthefolius</td>
</tr>
<tr>
<td>Chinaberry</td>
<td>Melia azedarach</td>
</tr>
<tr>
<td>Chinese tallow</td>
<td>Sapium sebiferum</td>
</tr>
<tr>
<td>Citrus</td>
<td>Citrus species</td>
</tr>
<tr>
<td>Ear tree</td>
<td>Enterolobium cyclocarpum</td>
</tr>
<tr>
<td>Eucalyptus</td>
<td>Eucalyptus species</td>
</tr>
<tr>
<td>Punk tree</td>
<td>Melaleuca leucadendion</td>
</tr>
<tr>
<td>Silk oak</td>
<td>Grevillea robusta</td>
</tr>
<tr>
<td>Woman's tongue</td>
<td>Albizia lebbeck</td>
</tr>
</tbody>
</table>

(b) A local government may at its option delete in whole or in part any of the exemptions described in subsection (a) of this section, but in no case shall the local government include any additional exemptions in its ordinance adopted pursuant to this division.

(Ord. No. 88-38, § II(404.00), 12-1-88)

Sec. 50-170. Tree protection generally.

(a) Minimum tree coverage.

(1) In connection with the new construction of any lot, each lot shall contain a minimum of one tree for every 2,500 square feet of lot area (rounded to the nearest whole number). If the lot contains an insufficient number of existing trees to meet this requirement, replacement trees shall be provided.

(2) At the option of local government, cross sectional area may be used as replacement criteria in lieu of a designated tree size, provided the following conditions are met:

a. The minimum tree requirements described in subsections (a)(1) and (2) of this section shall be maintained; and

b. The total cross sectional area provided shall equal or exceed the sum of the cross sectional area of a replacement tree multiplied by the minimum number of replacement trees required.

(3) Trees identified for removal shall be replaced with replacement stock, in the manner as determined by the local government.

(b) Specimen tree protection.

(1) A local government shall provide for the protection of specimen trees on all developments either upon site development plan or subdivision approval, or both. The following table sets forth the minimum requirements for the protection of specimen trees:
### Number of Specimen Trees vs. Minimum Specimen Tree Protection Requirement

<table>
<thead>
<tr>
<th>Number of Specimen Trees</th>
<th>Minimum Specimen Tree Protection Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 3 per acre or a portion thereof</td>
<td>80 percent of all specimen trees</td>
</tr>
<tr>
<td>3.0 to 5.0 per acre</td>
<td>65 percent of all specimen trees</td>
</tr>
<tr>
<td>5.1 to 8.0 per acre</td>
<td>50 percent of all specimen trees</td>
</tr>
<tr>
<td>8.0 or more per acre</td>
<td>4 specimen trees per acre</td>
</tr>
</tbody>
</table>

(2) A tree survey shall be required to locate all specimen trees on the site development. Notwithstanding the exemption of section 50-169(a)(1), the developer of a subdivision shall provide legal mechanisms which ensure the protection of specimen trees after construction has occurred on the development. Such mechanisms may include but shall not be limited to conservation easements, common open space, tree protection easements, deed restrictions and homeowners’ association documents. In lieu of said legal mechanism, a local government may provide for permitting procedures for removal of specimen trees. However, the specimen tree protection requirements set out in this subsection on residential lots shall only apply in the designated setback areas according to the zoning ordinance in effect in the local government.

(c) **Tree protection area.** Fifteen percent of the square footage of any development shall be designated for the protection of trees. The area required to protect specimen trees may be included to satisfy this requirement. This required area may be constituted as one or more subareas within the development. Said area may include any landscape buffer or other landscape areas required by any local government on a development. Such designated areas shall contain sufficient land area to comply with minimum tree protection standards to adequately protect the trees contained within the areas. A minimum of 50 percent of the required minimum number of trees as provided in subsection (a) of this section shall consist of existing trees within said area. The local government may provide for a waiver or modification of this requirement if the development contains an insufficient amount of existing trees to meet this requirement or if the local government determines that modification of this requirement is warranted by specific on-site conditions.

(d) **Historic trees** shall only be removed upon approval of a tree permit granted by the local governing body.

(Ord. No. 88-38, § II(405.00), 12-1-88; Ord. No. 98-12, § IV, 7-23-98)

### Sec. 50-171. Relocation of trees.

The local government may provide for the relocation of existing trees to suitable areas within the development. Relocation shall be performed in accordance with sound industry practices, including watering to ensure survival of replacement trees. Relocated trees may be applied toward required replacement trees.

(Ord. No. 88-38, § II(406.00), 12-1-88)

### Sec. 50-172. Natural vegetation retention areas.

Areas of a development may be designated as natural vegetation retention areas, indicating that all existing vegetation shall remain undisturbed on the area site. Under this designation, trees which contain sufficient size to meet the minimum replacement size and up to six inches DBH size may be retained as replacement trees. Replacement trees shall be considered protected trees and shall be spaced sufficiently far apart to allow adequate growth room for the species.

(Ord. No. 88-38, § II(407.00), 12-1-88)
Sec. 50-173. Tree survival.

Except for any exemptions contained in section 50-169, all trees relocated, replaced or existing within the terms of the division shall be replaced in the event said trees expire. If the development otherwise meets the minimum requirements of section 50-170(a), the local government may waive the replacement requirements. To ensure survival of trees, a local government shall also utilize the provisions of the Tree Protection Manual for Builders and Developers published by the state department of agriculture and consumer services, division of forestry, or other comparable protection requirements.

(Ord. No. 88-38, § II(408.00), 12-1-88)

Secs. 50-174—50-200. Reserved.