



MEMORANDUM

Date: January 7, 2025

To: Honorable Mayor and Commissioners

Via: Todd Stoughton
Interim City Manager

From: Katie P. Halloran
Planning Director

Subject: **File 24-6356 - Text Amendment of the Land Development Regulations** – An ordinance of the City of Key West, Florida amending Land Development Regulations Chapter 110, entitled “Resource Protection”, by amending Article VI entitled “Tree Protection”, by adding Section 110-296 entitled "Use of Florida Statute 163.045" to establish a requirement for homeowners to produce dangerous tree declarations to city staff pursuant to F.S. 163.045; to establish a procedure by which the Tree Commission and City staff may submit potential ethics violations to the International Society of Arboriculture regarding compliance with Florida Statute 163.045 and associated tree removal; providing for penalties; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.

Introduction

The proposed text amendment to the City’s Code of Ordinances is intended to help ensure that property owners and their arborists or landscapers are adhering to the State of Florida’s tree removal statute when they remove trees on residential property. The Planning Board recommended approval of this draft ordinance at their November 20, 2024, hearing through Resolution 2024-034. The proposed amendment was initiated by the City of Key West Tree Commission in collaboration with staff through TC 24-04.

Background

The following code amendment would provide a requirement for homeowners to submit any qualifying documentation for a tree trimming or removal to the urban forester on request in collaboration with Florida Statute (F.S) 163.045 within 30 days of the qualifying tree removal or major maintenance. It also allows the Tree Commission to determine if a letter to the International Society of Arboriculture (ISA) should be sent regarding alleged violations of F.S. 163.045

F.S 163.045 was adopted in 2019, which preempted municipalities from requiring permits, replacement plants, or penalties regarding residential properties if a tree poses a danger to persons or property. That determination must be made by an International Society of Arboriculture (ISA) certified arborist or licensed landscape architect. In 2022, F.S. 163.045 was amended to clarify what “documentation” means, as well as to clarify the risk standard.

While F.S. 163.045 mandates that a city cannot require a residential tree removal permit if an arborist or landscape architect opines that a tree is a risk to persons or property, it does not specifically prohibit a city from requiring the risk assessment documentation from being submitted to the city after removal in order to ensure that licensed arborists or landscape architects are in fact making these assessments. There has also been a concern by staff regarding the veracity of the assessments. There is a desire by tree staff and the tree commission to refer suspected violations by arborists to the ISA.

The proposed code amendment accomplishes the request by the Tree Commission. The code amendment would direct Forestry staff to alert the International Society of Arboriculture if a regulated tree has been removed and it does not appear that, “. . . *the property owner possesses documentation from an arborist certified by the ISA or a Florida licensed landscape architect that the tree poses an unacceptable risk to persons or property. A tree poses an unacceptable risk if removal is the only means of practically mitigating its risk below moderate, as determined by the tree risk assessment procedures outlined in Best Management Practices*” – *Tree Risk Assessment, Second Edition (2017)* If no documentation is provided the City could open an enforcement case. The ultimate goal is to limit the number of improper tree trimming and removal.

Procurement

This amendment is not expected to result in any cost for the City.

Recommendation

The proposed amendment was initiated by the City of Key West Tree Commission in collaboration with staff through TC 24-04.

The Planning Board recommend that the City Commission **approve** this draft ordinance as indicated through Resolution 2024-034.

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends that proposed text amendment to the Land Development Regulations be **approved** by the City Commission.

Exhibits:

Exhibit A – Draft Ordinance