

RESOLUTION NO. TC 24-03

A RESOLUTION OF THE TREE COMMISSION OF THE CITY OF KEY WEST, FLORIDA, RECOMMENDING THAT THE CITY COMMISSION DIRECT PLANNING DEPARTMENT STAFF TO DRAFT AN AMENDMENT TO CHAPTER 110 OF THE LAND DEVELOPMENT REGULATIONS, ENTITLED “RESOURCE PROTECTION”, ARTICLE VI ENTITLED, “TREE PROTECTION”, TO PROVIDE DIRECTION TO FORESTRY STAFF TO CORRESPOND WITH THE INTERNATIONAL SOCIETY OF ARBORICULTURE REGARDING COMPLIANCE WITH F.S. 163.045; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 90-182 of the City’s Land Development Regulations assigns power and duty to the Tree Commission to protect and enhance the health, growth, and planting of trees in the city; and

WHEREAS, the City’s Land Development Regulations includes provisions for Resource Protection and more specifically Tree Protection; Section 110-251 of Article VI states in part, *“The city commission finds that trees on privately and publicly owned property within the city are economic and aesthetic assets to the citizens of the city, because of their important and meaningful contribution to a healthy, beautiful, and safer community, attributable to their carbon dioxide absorption, oxygen production, dust filtration, wind and noise reduction, soil erosion prevention and surface drainage improvement.”*; and

WHEREAS, on July 1, 2019, the State of Florida enacted Florida Statute 163.045 regarding the removal of hazardous trees on residential properties; and

WHEREAS, F.S. 163.045 was further modified on July 1, 2022, and provides a process by which an arborist certified by the International Society of Arboriculture (ISA) or a Florida licensed landscape architect may assess and document “unacceptable risk” through an established tree risk assessment procedure and remove a tree thereby disallowing a local government from requiring any otherwise required notice, application, approval, permit, fee or mitigation; and

WHEREAS, the Tree Commission finds that City staff and residents of the City of Key West shall

respect and observe state law; and

WHEREAS, the Tree Commission wishes to direct City staff to ensure compliance with F.S. 163.045, including provision of state required documentation within a timeframe, verification of regulatory requirements for tree assessment, and authority to file ethical concerns through the ISA process, within the parameters of state law; and

WHEREAS, the Tree Commission recommends that the City Commission of the City of Key West direct City Management to draft a code amendment for Chapter 110- Resource Protection, Article VI.- Tree Protection, for consideration by the Planning Board and review and approval by the City Commission; and

WHEREAS, the Tree Commission recommends that the City Attorney assist the Planning Department to draft this Code amendment by suggesting legally defensible language to be included in the draft Code amendment; and

WHEREAS, the Tree Commission advises that municipalities such as Tampa, St. Petersburg, Pensacola, and other Florida cities are actively reporting perceived violations of F.S. 163.045, and City Management should review best practices to develop an effective procedure for the City of Key West; and

WHEREAS, 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);* and

WHEREAS, the Tree Commission finds that it is in the public’s interest to draft this amendment to the City’s Land Development Regulations as proposed herein given that the Tree Commission or the Urban Forester should be authorized to report ethics concerns to the ISA regarding tree removal; and

NOW, THEREFORE, BE IT RESOLVED by the Tree Commission of the City of Key West, Florida:

Section 1. That the above recitals are incorporated by reference as if fully set forth herein.

Section 2. The Tree Commission requests that the City Commission direct the City Manager to draft a Land Development Regulations Code amendment. The draft amendment shall provide conditions and a process by which City staff may communicate ethics concerns to the International Society of Arboriculture when it appears that a tree has been removed in conflict with the provisions of F.S. 163.045.

Section 3. This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Tree Commission.

Passed and adopted by the Key West Tree Commission at a regularly held meeting this 3rd day of Sept., 2024.

Filed with the Clerk on September 11, 2024.


MISHA McRAE, CHAIR

9/11/24
Date

Attest:


~~KERIO O'BRIEN, CLERK~~
Klyia Tabb

9/11/24
Date