

Date: July 7, 2022

8/15/2022



DEVELOPMENT REVIEW COMMITTEE STAFF REPORT AND RECOMMENDATION

Subject/Agenda Item:

ZTA-22-12: Tree Removal Permit

Recommendation to City Council: A City-initiated request for a text amendment to amend the City's Tree Removal Permit criteria to be in compliance with newly adopted State legislation.

☒ Recommendation to APPROVE

☐ Recommendation to DENY

☐ Quasi-Judicial

☒ Legislative

☒ Public Hearing

Originating Department: Planning & Engineering Project Manager _____ Caryn Gardner-Young, Zoning Administrator	Reviewed By: Acting Director of Development and Neighborhood Services _____ Andrea McCue, City Manager
Approved By: City Manager _____ Andrea McCue	Public Notice: <input checked="" type="checkbox"/> Required <input type="checkbox"/> Not Required Dates: Paper: The Lake Worth Herald Mailing <input type="checkbox"/> Required <input checked="" type="checkbox"/> Not Required Notice Distance: _____
Attachments: <ul style="list-style-type: none"> Ordinance 2022-21_ 	City Council Action: <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Approve with conditions <input type="checkbox"/> Denial <input type="checkbox"/> Continued to: _____

I. Executive Summary

The State of Florida adopted new regulations regarding tree removal permits. The approved legislation amends s. 163.045, F.S., which prohibits a local government from requiring a notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on residential property if the property owner obtains documentation from a certified arborist or a licensed landscape architect, that the tree “poses an unacceptable risk” to persons or property. Under the bill, a tree poses an unacceptable risk if removal is the only means of practically mitigating its risk below moderate as outlined in Best Management Practices – Tree Risk Assessment, Second Edition (2017).

The bill defines "documentation" to mean an onsite tree risk assessment performed in accordance with the tree risk assessment procedures outlined in Best Management Practices - Tree Risk Assessment, Second Edition (2017). Documentation must be signed by an arborist certified by the International Society of Arboriculture (ISA) or Florida licensed landscape architect. The bill also defines the term "residential property" as a single-family detached building located on an existing lot, actively used for single-family residential purposes, and which is either an existing conforming use or a legally recognized nonconforming use following the local jurisdiction's applicable land development regulations.

II. Proposed Zoning Text Amendments:

The following Zoning Code regulations are impacted by the proposed Zoning Text Amendments. Items which are proposed for deletion are in **~~Strike-Through~~**, items proposed for addition are in **Single Underline**.

Proposed Change

CHAPTER 16

ARTICLE VII LANDSCAPING

Sec. 16-1249. - Building permit for vegetation removal required.

(a) Applicability. Unless otherwise provided in this article, no person, firm, corporation, association, public agency, or agent or employee, shall destroy, remove, or relocate acceptable vegetation not listed in Table 16-1312(a) from any property without first obtaining a building permit for vegetation removal from the city.

(1) For residential developments and subdivisions with approved landscape plans and homeowners' associations, a building permit is required for vegetation removal(a) Applicability. Unless otherwise provided in this article, no person, firm, corporation, association, public agency, or agent or employee, shall destroy, remove, or relocate acceptable vegetation not listed in Table 16-1312(a) from any property without first obtaining a building permit for vegetation removal from the city.

(1) For residential developments and subdivisions with approved landscape plans and homeowners' associations, a building permit is required for vegetation removal. A homeowners association letter

of approval must be included in the application. Each tree removed must be replaced with a new tree that meets City Code requirements, located in accord with the approved landscape plan.

(2) For residential developments and subdivisions without approved landscape plans and with a homeowner's association, a building permit is required for vegetation removal. A homeowners association letter of approval must be included in the application. Each tree removed must be replaced with a new tree that meets City Code requirements if removal reduces the number of trees on the lot below Code minimums for quantity. Replacements shall be located on the affected lot.

(3) For residential developments and subdivisions without approved landscape plans and without a homeowner's association, a building permit is required for vegetation removal. Each tree removed must be replaced with a new tree that meets current City Code requirements if removal reduces the number of trees on the lot below Code minimums for quantity. Replacements shall be located on the affected lot.

(b) Exemptions.

(1) Prohibited trees listed in Table 16-1312(a) may be removed for any reason without a permit for vegetation removal.

(2) Other than for trees, the permit requirement for vegetation removal at single-family and duplex residential lots may be waived at the discretion of the planning and engineering director or designee if the vegetation to be removed is replaced at a 1:1 ratio.

(3) Trees with a trunk less than one (1) inch in diameter, measured at a point which is at least four and one-half (4½) feet above finished grade, may be removed without a permit.

(4) Removal of dead trees requires a permit and may require replacement trees to be planted as provided elsewhere in this article, however the permit shall be issued at no charge.

(5) In the event that a replacement tree is not required as a result of an approved removal (such as if the lot will meet or exceed the minimum tree count requirement after removal), the permit for removal shall be issued at no charge.

(6) *Residential property.* As referenced in F.S. § 163.045, residential property shall be defined as a single-family, detached building located on a lot that is actively used for single-family residential purposes and that is either a confirming use or a legally recognized nonconforming use in accordance with the city's zoning regulations. ~~fee simple, single family, attached or detached, or duplex lots.~~ Those parcels or lots that comprise the common elements or community property, in whole or in part, within a PCD, PUD, and or MXD shall not be defined as or deemed to be "residential property" for the purposes of F.S. § 163.045. Residential properties that utilize the state statute exemption are required to possess file the required documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect that the tree being removed 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 the residential property meets this requirement, then the tree may be removed without a permit.

~~provides a reason and justification that the tree presents a danger to persons or property with the city's planning and engineering department.~~

[Subsections 16-1249(c) through 16-1249(g) and Section 12-1250 are not being amended and are omitted for brevity]

III. Zoning Text Amendment Criteria:

A. *The need and justification for these changes:*

The principal intent of these proposed text amendments to the Zoning Code is to amend the City's Tree Removal Permit criteria to be in compliance with newly adopted State legislation which does not require a Tree Removal Permit for trees removed from single family homes and determined by a landscape architect or arborist that the tree poses an unacceptable risk to persons or property per Best Management Practices – Tree Risk Assessment, Second Edition (2017).

B. *The relationship of the proposed amendments to the purpose and objectives of the City's Comprehensive Plan, and whether the proposed change will further the purposes of the City's Zoning Code regulations and other City codes, regulations and actions designed to implement the Comprehensive Plan.*

The proposed amendments are consistent with the City's Comprehensive Plan and will further the purposes of the City's Zoning Code regulations and other City codes.

IV. Staff Analysis:

The Development Review Committee Staff met on June 9 and 16, 2022, to discuss the proposed amendment. No objections were received.

Planning, GIS, and Engineering Division:	No objections
Building Division,	No objections
Fire Rescue Department	No objections
Public Works Department	No objections
PBSO District #16	No objections
Recreation and Community Services Department	No objections

IV. Staff Recommendation:

Approval of ZTA- 22-12 through the adoption of Ordinance 2022-21.

PLANNING ZONING BOARD OF APPEALS RECOMMENDATION – August 11, 2022

The Planning and Zoning Board of Appeals on a motion made by Board Member Edmundson and seconded by Board Member Litowsky, by a vote of five (5) to zero (0) recommended approval of Zoning Text Amendment **ZTA-22-12** as presented by staff.

CITY COUNCIL ACTION First Reading – August 15, 2022

The City Council on a motion made by Council Member Dugo and seconded by Council Member Diaz, by a vote of five (5) to zero (0) recommended approval of Zoning Text Amendment **ZTA-22-12** as presented by staff.

CITY COUNCIL ACTION Adoption Hearing – September 14, 2022
