

ORDINANCE NO. 2022-21

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 16, ZONING REGULATIONS, ARTICLE VII, LANDSCAPING, DIVISION 1, GENERAL REQUIREMENTS, SECTION 16-1249, BUILDING PERMIT FOR VEGETATION REMOVAL REQUIRED, TO CLARIFY WHEN A TREE REMOVAL PERMIT IS NOT REQUIRED FOR RESIDENTIAL PROPERTY IN COMPLIANCE WITH NEWLY ADOPTED STATE STATUTES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

WHEREAS, the City of Greenacres, Florida (the “City”) is a duly constituted municipality having such home rule power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Development and Neighborhood Services Department has submitted a request for a Zoning Code Text Amendment to revise Chapter 16, Article VII, Division 1, specifically section 16-1249 to clarify when a tree removal permit is not required for residential property; and

WHEREAS, the Development Review Committee determined that the proposed amendments to section 16-1249 are appropriate as further stated in the Committee’s Staff Report and Recommendation, “Exhibit A” dated July 7, 2022 (attached); and

WHEREAS, the proposed amendments are required due to recently approved amendments to the governing state statute, which the City’s existing code is in conflict with; and

WHEREAS, the City Council deems approval of this Ordinance to be in the best interest of the residents and citizens of the City of Greenacres and serves a valid public purpose.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF

GREENACRES, FLORIDA, THAT:

SECTION 1. The City of Greenacres Code of Ordinance at Chapter 16, Zoning Regulations, Article VII, Landscaping, Division 1, General Requirements, is hereby amended at section 16-1249 as follows (additions are indicated by underscoring and deletions are indicated by ~~strikeout~~):

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.

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(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]

SECTION 2. Repeal of Conflicting Ordinances.

All ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION 3. Severability

If any section, part of a section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holdings of invalidity shall not affect the remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass the Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts shall be deemed to be held valid as if such part or parts had not been included therein, or if this Ordinance or any of the provisions thereof shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances.

SECTION 4. Inclusion in Code

It is the intention of the City Council, entered as hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Greenacres, Florida; that the Section(s) of this Ordinance may be renumbered or re-lettered to accomplish such intention, and that the word "Ordinance" may be changed to "Section", "Article" or another word.

SECTION 5. Effective Date

The provisions of this Ordinance shall become effective upon adoption.

PASSED on the first reading this 15th day of August, 2022.

PASSED AND ADOPTED on the second reading this 14th day of September, 2022.

Voted:

Joel Flores, Mayor

John Tharp, Deputy Mayor

Attest:

Voted:

Quintella Moorer, City Clerk

Peter Noble, Council Member, *District II*

Voted:

Judith Dugo, Council Member, *District III*

Voted:

Susy Diaz, Council Member, *District IV*

Voted:

Paula Bousquet, Council Member, *District V*

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia, City Attorney