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ORDINANCE 2025-17 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 “LAND DEVELOPMENT REGULATIONS”, ARTICLE 6 “ENVIRONMENTAL REGULATIONS,” SECTION 23.6-1 – LANDSCAPE REGULATIONS, PARAGRAPH (m)(7)c.7, AND SUBSECTIONS (p), AND (q), RELATED TO FEE-IN-LIEU OF REPLACEMENT OF TREES, PENALTIES FOR TREE ABUSE AND REMOVAL WITHOUT A PERMIT, AND APPEALS; AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE

WHEREAS, as provided in Section 2(b), Article VIII of the Constitution of the State of Florida, and Section 166.021(1), Florida Statutes, the City of Lake Worth Beach (the “City”), enjoys all governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, as provided in Section 166.021(3), Florida Statutes, the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law; and

WHEREAS, the City wishes to amend Chapter 23, Article 6 “Environmental Regulations,” Section 23.6-1 – “Landscape regulations,” paragraph (m)(7)c.7 to reduce the fee-in-lieu requirements for tree replacement; and

WHEREAS, the City wishes to amend Chapter 23, Article 6 “Environmental Regulations,” Section 23.6-1 – “Landscape regulations,” subsection (p) to amend the penalties for tree abuse and removal without a permit; and

WHEREAS, the City wishes to amend Chapter 23, Article 6 “Environmental Regulations,” Section 23.6-1 – “Landscape regulations,” subsection (q) to amend the procedures to appeal a violation and penalty for tree abuse and removal without a permit; and

WHEREAS, the Planning and Zoning Board, in its capacity as the local planning agency, considered the proposed amendments at a duly advertised public hearing; and

WHEREAS, the Historic Resources Preservation Board, in its capacity as the local planning agency, considered the proposed amendments at a duly advertised public hearing; and

WHEREAS, the City Commission has considered the proposed amendments at a duly advertised public hearing and has determined that it is in the best interest of the public health, safety, and general welfare of the City to adopt this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, that:

Section 1: The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this ordinance as if set forth herein.

52 **Section 2:** Chapter 23 “Land Development Regulations, Article 6 “Environmental
 53 Regulations,” Section 23.6-1 “Landscape Regulations,” paragraph (m)(7)(c)7 is hereby amended
 54 by adding the words shown in underline type and deleting the words struck through as follows:
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56 7. Where the property cannot accommodate tree replacement on a DBH/caliper inch-per-
 57 inch basis, an in-lieu of fee shall be deposited into the Tree Canopy Restoration Fund for those
 58 trees with a condition rating of fifty (50) percent or greater. The in-lieu fee is calculated per DBH
 59 inch for each tree that cannot be mitigated by replacement. The in-lieu fee shall be calculated on
 60 an escalating scale:
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| <i>Residential—Tree DBH</i> | <i>Mitigation fee per inch</i> |
|---------------------------------|-----------------------------------|
| 3" - < 6" | \$60.00 <u>51.00</u> |
| 6" - < 9" | \$80.00 <u>68.00</u> |
| 9" - < 12" | \$100.00 <u>85.00</u> |
| 12" - < 18" | \$200.00 <u>170.00</u> |
| 18" or greater | \$400.00 <u>340.00</u> |
| <i>Non-Residential—Tree DBH</i> | <i>Mitigation fee per inch</i> |
| 3" - < 6" | \$120.00 <u>102.00</u> |
| 6" - < 9" | \$160.00 <u>136.00</u> |
| 9" - < 12" | \$200.00 <u>170.00</u> |
| 12" - < 18" | \$400.00 <u>340.00</u> |
| 18" or greater | \$800.00 <u>680.00</u> |

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 63 **Section 3:** Chapter 23 “Land Development Regulations, Article 6 “Environmental
 64 Regulations,” Section 23.6-1 “Landscape Regulations,” subsection (p) is hereby amended by
 65 adding the words shown in underline type and deleting the words struck through as follows:
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67 (p) *Penalties for tree abuse and removal without a permit.*

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 70 (1) Any person who violates this section shall pay to the city ~~within days~~ the base rate penalty,
 71 adopted by resolution of the city commission. Violations may be determined by the
 72 development review official or the city’s code compliance magistrate. Penalties are levied
 73 in addition to replacement, inch for inch, with trees on site to meet the minimum
 74 requirements if the city horticulturist deems the tree unsalvageable. Penalties shall be paid
 75 into the Tree Canopy Restoration Fund. If the replacement tree cannot be located on site,

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the full cost of replacing the tree (specified in subsection ~~p m(7)(c)~~) shall also be paid into the Tree Canopy Restoration Fund.

| <i>Residential—Tree DBH</i> | <i>Fine or fee per inch</i> |
|---------------------------------|-----------------------------|
| 3" - < 6" | \$60.00 |
| 6" - < 9" | \$80.00 |
| 9" - < 12" | \$100.00 |
| 12" - < 18" | \$200.00 |
| 18" or greater | \$400.00 |
| <i>Non-Residential—Tree DBH</i> | <i>Fine or fee per inch</i> |
| 3" - < 6" | \$120.00 |
| 6" - < 9" | \$160.00 |
| 9" - < 12" | \$200.00 |
| 12" - < 18" | \$400.00 |
| 18" or greater | \$800.00 |

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- (2) ~~If a historic, specimen or champion tree is removed the fine shall be two thousand dollars (\$2,000.00) per DBH inch. Payment of penalties shall be made to the city within ten (10) days after receipt of written notice by the city of the violation or as provided by order of the city's code compliance magistrate. Notice shall be provided in accordance with Section 2-70 of the city's code of ordinances.~~
- (3) ~~If the city horticulturist development review official deems the tree salvageable, the city horticulturist development review official shall recommend an arborist be contracted for three (3) to five (5) years by the property owner for corrective pruning for violations under subsection m). A signed contract with an arborist for corrective pruning and restoration over a period of three (3) to five (5) years must be submitted for approval to the city horticulturist development review official within thirty (30) days of written notice from the city of the development review official's determination that the tree is salvageable or a fifty dollars (\$50.00) per day fine will be imposed.~~
- (4) ~~If the development review official deems the tree unsalvageable, penalties are levied in addition to replacement, inch for inch, with trees on site to meet the minimum~~

requirements. If the replacement tree cannot be located on site, the full cost of replacing the tree (specified in subsection m(7)(c)7) shall be paid into the Tree Canopy Restoration Fund, along with the penalties.

(45) To enforce compliance with this chapter, Lake Worth Beach city officials may issue a cease and desist order or require that a building permit or certificate of occupancy be withheld.

Section 4: Chapter 23 “Land Development Regulations, Article 6 “Environmental Regulations,” Section 23.6-1 “Landscape Regulations,” subsection (q) is hereby amended by adding the words shown in underline type and deleting the words struck through as follows:

(q) *Appeals.*

(1) Anyone aggrieved by a decision of the development review official regarding the landscape regulations may appeal that decision in accordance with section 23-2.17. apply to the planning and zoning board or historic resources preservation board, as applicable, when the application of the regulations will cause undue hardship on an owner or when it is claimed that the true intent and meaning of a landscape regulation may have been misconstrued or wrongly interpreted. The appeal shall be made on a form provided by the department for community sustainability and the aggrieved party shall pay a filing fee as established from time to time by the city commission.

(2) Appeals of the landscape regulations, other than the penalty in subsection (p), may address undue hardship on an owner that is or will be caused by the strict application of the regulations or claims that the true intent and meaning of a landscape regulation may have been misconstrued or wrongly interpreted.

(3) Appeals of the penalty under subsection (p) shall be limited in scope to the applicable amount of the penalty based on the size of the abused or removed tree. The adopted penalty amounts shall not be reduced.

Section 5: Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 6: Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 7: Codification. The sections of the ordinance may be made a part of the City Code of Laws and ordinances and may be re-numbered or re-lettered to accomplish such, and the word “ordinance” may be changed to “section”, “division”, or any other appropriate word.

Section 8: Effective Date. This ordinance shall become effective 10 days after passage.

The passage of this ordinance on first reading was moved by _____, seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Betty Resch
Vice Mayor Sarah Malega

151 Commissioner Christopher McVoy
152 Commissioner Mimi May
153 Commissioner Anthony Segrich

154
155 The Mayor thereupon declared this ordinance duly passed on first reading on the _____
156 day of _____, 2026.

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159 The passage of this ordinance on second reading was moved by _____,
160 seconded by _____, and upon being put to a vote, the vote was as follows:

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162 Mayor Betty Resch
163 Vice Mayor Sarah Malega
164 Commissioner Christopher McVoy
165 Commissioner Mimi May
166 Commissioner Anthony Segrich

167
168 The Mayor thereupon declared this ordinance duly passed on the _____ day of
169 _____, 2026.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

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178 ATTEST:
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181 _____
182 Melissa Ann Coyne, MMC, City Clerk