



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

PLANNING & ZONING BOARD STAFF REPORT

Amendment to LDR Section 4.6.19(E), Vegetation Removal Permits

Meeting	File No.	Application Type
September 12, 2022	2022-251	Amendment to the Land Development Regulations

Applicant

City of Delray Beach

Request

Provide a recommendation to the City Commission on Ordinance No. 34-22, a City-initiated amendment to Section 4.6.19(E), *Vegetation removal permits* of the Land Development Regulations (LDRs) to remove the in-lieu fee schedule for the tree removal from the LDRs and codify certain subsections to improve readability.

Background Information

From time to time, the City of Delray Beach finds that it is appropriate to review the Development Services Fee Schedule and update application fees based on analysis. Development Services fees have typically been updated every two years, since the Department was directed to do so by the City Commission in 2003. The most recent update to the Fee Schedule was focused on application processing fees, and was adopted in September 2020 when all other Development Services fees were removed from LDR Section 2.4.3(K) through Ordinance No. 41-20, and adopted by Resolution No. 133-20, after staff determined that removing the fee schedule from the LDRs provides a simpler procedure for updating the fee schedule as-needed.

The LDR amendment proposed as Ordinance No. 34-22 removes the in-lieu fee schedule for the tree removal from the LDRs; the proposed Resolution No. 139-22 adopts in-lieu free schedules for both tree and palm removal into the fee schedule. It is consistent with the previous updates to the fee schedule to remove the fees from the LDRs, and alternatively adopt them by resolution.

Subsequent to adoption of the proposed LDR amendment, the City Commission will review and approve a resolution adopting the fee schedule at one public hearing concurrent with the effective date of the Ordinance 34-22. Draft Resolution No. 139-22 to adopt the in-lieu fee schedule for tree or palm removal is enclosed for the Board as a back-up.

Description of Proposal

LDR Section 4.6.19, *Tree Preservation, Protection, Enforcement, and Maintenance* regulates and promotes the preservation of trees and palms in all development proposals. LDR Section 4.6.19 also allows for removal when an applicant demonstrates the preservation of trees and palms in place or relocation off-site is not feasible. It is in the City's best interest to preserve the existing trees and palms; however, removal of the existing tree and palm is often unavoidable when a new development is proposed, and relocation on or off site is not always feasible. Therefore, it is necessary to regulate in-lieu fees.

This proposed amendment to LDR Section 4.6.19(E) is initiated to remove the in-lieu fee schedule for the tree removal from the LDR and establish it through resolution in accordance with LDR Section 2.4.3(K), *Fees*; to include an in-lieu fee schedule specific to the palm removal in the same resolution; and to eliminate inconsistencies, repetition, and ambiguity to improve readability and ease of interpretation while directing removal of the in-lieu fee schedule.

Major changes proposed to LDR Section 4.6.19(E) are summarized as follows:

- Removal of in-lieu fees for the tree removal,
- Providing readable tabulations for replacement requirements for tree and palm mitigation,

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Attachments:

- Ordinance No. 34-22, LDR Text Amendment
- Resolution 139-22, Adopting a Mitigation Fee Schedule

- Updating regulations of nuisance tree species,
- Simplifying penalties set forth for tree removal without proper approval, and
- Eliminating repetitions and consolidate subsections for consistencies.

Review and Analysis

The proposed amendment is initiated by City staff in response to direction by the City Commission in 2003 to update the Development Services Fee schedule every two years.

Pursuant to **LDR Section 1.1.6, Amendments**, *the text of these Land Development Regulations may from time to time be amended, changed, supplemented, or repealed. No such action however, shall be taken until a recommendation is obtained from the Planning and Zoning Board and until a public hearing has been held by the City Commission.*

Pursuant to **LDR Section 2.4.5(M)(1), Amendments to the Land Development Regulations**, *amendments to the LDR may be initiated by the City Commission, Planning and Zoning Board, or City Administration, or by a member of the public.*

Pursuant to **LDR Section 2.4.5(M)(5), Findings**, *the City Commission must make a finding that the text amendment is consistent with and furthers the Goals, Objectives and Policies of the Comprehensive Plan.* The following Objective and Policy of the adopted Comprehensive Plan are applicable to the proposed amendment:

Neighborhoods, Districts, and Corridors Element

Objective NDC 3.5. Update the Land Development Regulations *Regularly review and update the Land Development Regulations to provide timely, equitable and streamlined processes including, but not limited to, building permit processes for residential developments and to accommodate mixed-use developments, address market changes and development trends, and other innovative development practices.*

Economic Development Element

Policy ECP 6.3.2. Encourage predictability and consistency in the City's Land Development Regulations, *while also allowing for flexibility and creativity in the site development process.*

Open Space, Parks, and Recreation Element

Objective OPR 3.5 Tree Canopy *Preserve and enhance the tree canopy to mitigate the heat island effect and provide beautification throughout Delray Beach.*

Healthy Community Element

Policy HCE 3.2.6 *Encourage residents and property owners to plant and maintain trees on their own property to increase air quality.*

Housing Element

Policy HOU 1.1.3 *Foster neighborhood identity and pride by recognizing that every neighborhood has assets that identify that neighborhood and contribute to the well-being of the residents who live there. Understand what those are and look for opportunities to enhance them and leverage them for neighborhood improvement. Assets include trees, historic resources, schools, community gardens, architectural features and the residents.*

The proposed amendment provides a process improvement for updating Development Services application fees by streamlining the process to adopt a revised fee schedule, improves the readability of the regulations for applicants, and supports the City's goals relative to landscape beautification and tree preservation. Removing the in-lieu fees from the LDR for adoption by resolution is consistent with current practice for other development fees.

Review By Others

Ordinance No. 34-22 is anticipated to go before the City Commission for first reading on October 11, 2022, and second reading on October 25, 2022. Resolution No. 139-22 to adopt the in-lieu fee schedule for the tree or palm removal will be placed for the hearing on October 25, 2022, concurrently with the adoption of Ordinance No. 34-22.

Board Action Options

- A. Move a recommendation of **approval** of Ordinance No. 34-22, finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations.
- B. Move a recommendation of **approval** of Ordinance No. 34-22, finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the applicable criteria set forth in the Land Development Regulations, **as amended**.
- C. Move a recommendation of **denial** of Ordinance No. 34-22, finding that the amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the applicable criteria set forth in the Land Development Regulations.
- D. **Continue With Direction.**

Public and Courtesy Notices

X Courtesy Notices were sent to the following:

- Chamber of Commerce
- Downtown Development Authority
- Homeowner Associations

X Public Notices are not required for this request