



## Cover Memorandum/Staff Report

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**File #:** 23-871

**Agenda Date:** 9/5/2023

**Item #:** 8.A.

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**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotas, Development Services Department  
**THROUGH:** Terrence R. Moore, ICMA-CM  
**DATE:** September 5, 2023

ORDINANCE NO. 10-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH CODE OF ORDINANCES CHAPTER 4, "ZONING REGULATIONS," ARTICLE 4.6, "SUPPLEMENTAL DISTRICT REGULATIONS," SECTION 4.6.19, "TREE PRESERVATION, PROTECTION, ENFORCEMENT, AND MAINTENANCE," TO REMOVE THE FEE SCHEDULE FOR IN LIEU FEES, VEGETATION REMOVAL PERMITS AND EXCEPTIONAL SPECIMEN TREE PENALTIES FROM THE LAND DEVELOPMENT REGULATIONS IN ORDER TO BE APPROVED BY RESOLUTION TO ESTABLISH MITIGATION REQUIREMENTS FOR PALM TREES, TO REQUIRE MITIGATION FOR TREES AND PALMS WITH LESS THAN 50 PERCENT CONDITION RATING, TO MODIFY THE LIST OF NUISANCE PLANT SPECIES, AND TO UPDATE THE LANGUAGE FOR CLARITY; AND AMENDING APPENDIX A, "DEFINITIONS," TO MODIFY THE DEFINITION OF EXCEPTIONAL SPECIMEN TREE TO REQUIRE A DIAMETER AT BREAST HEIGHT OF 18 INCHES OR MORE AND TO DELETE IN ITS ENTIRETY THE DEFINITION OF SPECIMEN TREE AS DUPLICATIVE; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AUTHORITY TO CODIFY; AND PROVIDING AN EFFECTIVE DATE. (SECOND READING/PUBLIC HEARING)

**Recommended Action:**

Review and consider Ordinance No. 10-23, 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:**

From time to time, the City of Delray Beach finds it appropriate to review the Development Services Fee Schedule and update application fees based on analysis. 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. The City determined that removing the fee schedule from the LDR provides a simpler procedure for updating the fee schedule as-needed; Ordinance No. 10-23 implements the same procedure for tree removal fees. This ordinance does not remove fees or facilitate tree removal.

This ordinance amends LDR Section 4.6.19(E) and removes the in-lieu fee schedule for tree removal and penalties for unauthorized tree removal from the LDR to adoption by Resolution, which allows for easier updates over time. This process is consistent with the procedure in LDR Section 2.4.3(K), *Fees* for other development-related fees. It is important to note that this resolution does not change

or reduce the tree preservation ordinance. The proposed amendment also eliminates inconsistencies, repetition, and ambiguity in LDR Section 4.6.19 to improve readability and ease of interpretation.

Resolution No. 39-23 will accompany the second reading of this ordinance and will formally adopt the in-lieu fee schedule for trees in this manner. The resolution will also add a fee schedule for palm removal and adopt penalties for unauthorized tree removal.

The Planning and Zoning Board reviewed the proposed ordinance (as Ordinance No. 34-22) at its meeting on September 12, 2022, and voted 5 - 1 to recommend denial of the request. The Board's concerns centered on the desire to see a comprehensive tree protection ordinance brought forth. The City's tree preservation ordinance is comprehensive, though state-level legislation limits its application on most single-family properties. The City Commission voted 5-0 to approve at first reading on June 16, 2023.

**City Attorney Review:**

Ordinance No. 10-23 is approved as to form and for legal sufficiency.

**Funding Source/Financial Impact:**

Not applicable.

**Timing of Request:**

Ordinance No. 10-23 will become effective immediately at second reading on September 5, 2023. Resolution No. 39-23 will accompany this ordinance, adopting the fees via the resolution.