

RESOLUTION NO. 39-23

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ESTABLISHING A SCHEDULE OF FEES FOR TREE AND PALM MITIGATION, PURSUANT TO THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH, FLORIDA, SECTION 4.6.19(E)(5), AND ESTABLISHING A SCHEDULE OF FEES FOR THE UNPERMITTED REMOVAL OF AN EXCEPTIONAL SPECIMEN TREE PURSUANT TO THE LAND DEVELOPMENT REGULATIONS SECTION 4.6.19(E)(8); PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, Section 4.6.19 of the Land Development Regulations (“LDRs”) of the Code of Ordinances of the City of Delray Beach (“City”) promotes the preservation of trees and palms in all development proposals; and

WHEREAS, Section 4.6.19(D) of the LDR allows for removal of trees and palms when an applicant demonstrates the preservation or relocation off-site of the trees and palms are not feasible; and

WHEREAS, Section 4.6.19(E) of the LDR requires an in-lieu fee when preservation, relocation, or mitigation of removed trees and palms cannot be accommodated on-site; and

WHEREAS, pursuant to Section 4.6.19(E)(5) of the LDR, the in-lieu fee shall be adopted by City Commission by resolution; and

WHEREAS, Section 4.6.19(E) of the LDR also calls for the imposition of penalties for the unpermitted removal of trees and palms and requires an additional penalty when the tree is an Exceptional Specimen Tree; and

WHEREAS, pursuant to Section 4.6.19(E)(8) of the LDR, the penalty for the unpermitted removal of an Exceptional Specimen Tree shall be adopted by City Commission by resolution; and

WHEREAS, the City Commission of the City of Delray Beach (“Commission”) desires to adopt in-lieu fees to discourage removal of trees and palms, provide appropriate cost for mitigation required for the tree and palm removal, and provide consistency with the market cost of replanting; and

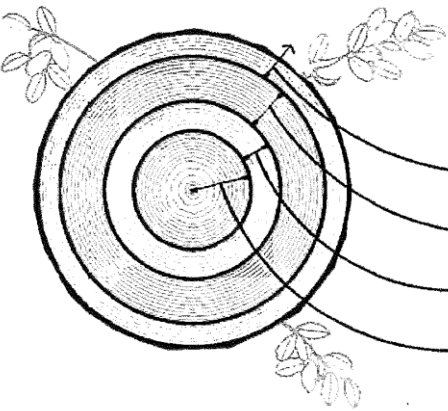
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The foregoing recitals are hereby affirmed and ratified.

Section 2. The City of Delray Beach establishes an in-lieu fee schedule as follows:

A. In-Lieu Fee Schedule for Tree and Palm Removal.

1. An in-lieu fee schedule for the tree removal shall be calculated on an escalating scale based on Diameter at Breast Height (DBH) measurement, as provided in the table below.

| Tree with a condition rating equal to or greater than 50%   |                                |     |                                |       |        |          |       |         |       |        |       |
|---|--------------------------------|-----|--------------------------------|-------|--------|----------|-------|---------|-------|--------|-------|
| DBH 0 inches through 8 inches are calculated at \$450.00/DBH inch   |                                |     |                                |       |        |          |       |         |       |        |       |
| DBH 9 inches through 12 inches are calculated at \$650.00/ DBH inch   |                                |     |                                |       |        |          |       |         |       |        |       |
| DBH 13 inches through 18 inches are calculated at \$850.00/DBH inch   |                                |     |                                |       |        |          |       |         |       |        |       |
| DBH 19 inches and greater are calculated at \$1,000.00 per DBH inch   |                                |     |                                |       |        |          |       |         |       |        |       |
| <div style="display: flex; align-items: center;">  <table border="1" style="margin-left: 20px;"> <thead> <tr> <th>DBH</th><th>In-Lieu Fee<br/>(\$ / DBH inch)</th></tr> </thead> <tbody> <tr> <td>&gt; 18"</td><td>\$1000</td></tr> <tr> <td>&gt;12"-18"</td><td>\$850</td></tr> <tr> <td>&gt;8"-12"</td><td>\$650</td></tr> <tr> <td>0"- 8"</td><td>\$450</td></tr> </tbody> </table> </div> |                                | DBH | In-Lieu Fee<br>(\$ / DBH inch) | > 18" | \$1000 | >12"-18" | \$850 | >8"-12" | \$650 | 0"- 8" | \$450 |
| DBH   | In-Lieu Fee<br>(\$ / DBH inch) |     |                                |       |        |          |       |         |       |        |       |
| > 18"   | \$1000                         |     |                                |       |        |          |       |         |       |        |       |
| >12"-18"  | \$850                          |     |                                |       |        |          |       |         |       |        |       |
| >8"-12"   | \$650                          |     |                                |       |        |          |       |         |       |        |       |
| 0"- 8"  | \$450                          |     |                                |       |        |          |       |         |       |        |       |
| <ul style="list-style-type: none"> <li>▪ Example 1 - a tree with 6 DBH inches:<br/> <math>(\\$450.00 \times 6") = \\$2,700.00</math> </li> <li>▪ Example 2 - a tree with 21 DBH inches:<br/> <math>(\\$450.00 \times 8") + (\\$650.00 \times 4") + (\\$850.00 \times 6") + (\\$1,000.00 \times 3") =</math><br/> <math>\\$3,600.00 + 2,600.00 + \\$5,100.00 + \\$3,000.00 = \\$14,300.00</math> </li> </ul>   |                                |     |                                |       |        |          |       |         |       |        |       |
| Trees with a condition rating less than 50%:  |                                |     |                                |       |        |          |       |         |       |        |       |
| The in-lieu fee shall be calculated at 50% of the above escalating scale.   |                                |     |                                |       |        |          |       |         |       |        |       |

2. The in-lieu fee schedule for the palm removal shall be calculated based on a Clear Trunk (CT) measurement, as provided in the table below.

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| Palm with a condition rating equal to or greater than 50%  |
| \$75 per one-foot clear trunk.   |
| <ul style="list-style-type: none"> <li>▪ Example 1 - coconut palm with 16-foot clear trunk:<br/>16 feet X \$75 = \$1,200</li> <li>▪ Example 2 - sabal palm with 20-foot clear trunk:<br/>20 feet X \$75 = \$1,500</li> </ul> |
| Palm with a condition rating less than 50%:<br>The in-lieu fee shall be calculated at 50% of the above scale.  |

- B. In-lieu fee Schedule for Canopy Replacement for Removed Trees and Palms in square feet (sq.ft.)

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| Removed trees with a canopy 899 sq.ft.: \$450 per 100 sq.ft.               |
| Removed trees with a canopy 900 sq.ft to 1,599 sq.ft : \$850 per 100 sq.ft |
| Removed trees with a canopy 1,600 sq.ft and larger: \$1250 per 100 sq.ft   |
| Removed palms: \$450 per 200 sq.ft, but no less than \$450 per a palm      |

- C. Penalty for Removal of an Exceptional Specimen Tree, as defined in LDR Appendix A – Definitions

|   |
|---|
| \$1,000 per DBH inch, or \$1,000 per 100 sq.ft. of the tree canopy removed        |
| \$1,000 fine per tree, in addition to the DBH penalty and any required mitigation |

Section 3. One copy of the Fee schedule as set forth herein and established by resolution of the City Commission shall be identified as an official copy and shall be kept on file with the City Clerk for public use, inspection, and examination.

Section 4. One copy of the Fee schedule as set forth herein shall be identified as a copy, and shall be kept on file with the Development Services Department for public use, inspection and examination for use, inspection, and examination by City Staff and any applicant(s).

Section 5. One digital copy of the official copy of the Fee schedule as set forth herein shall be posted to the City's website with development applications.

Section 6. All resolutions or parts of resolutions in conflict with this resolution are to the extent of such conflict hereby repealed.

Section 7. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED in regular session on this \_\_\_\_ day of \_\_\_\_\_, 2023.

ATTEST:

\_\_\_\_\_  
Katerri Johnson, City Clerk

\_\_\_\_\_  
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Lynn Gelin, City Attorney