



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

PLANNING AND ZONING BOARD STAFF REPORT

Tree Trust Fund Definition Revision

| Meeting | File No. | Application Type |
|------------------|--------------|---|
| January 22, 2024 | 2024-050-LDR | Amendment to the Land Development Regulations |

Request

Provide a recommendation to the City Commission on a City-initiated amendment to Appendix A, "Definitions," of the Land Development Regulations to revise the definition of the Tree Trust Fund to include maintenance activities, as proposed in Ordinance No. 06-24.

Background Information

In 2006, the City Commission adopted Ordinance No. 37-06, which amended the Land Development Regulations (LDR) to repeal sections pertaining to tree protection and tree removal, and to enact new provisions consolidated in rewritten LDR Section 4.6.19, "Tree Ordinance." Ordinance No. 37-06 also provided important LDR streamlining, clarification and increased protection for tree resources. The amendment was initiated in response to the removal of significant trees associated with development projects. Changes associated with this amendment included 19 new definitions, protection of Exceptional Specimen Trees, removal of hazardous trees, fees and penalties, hurricane preparedness, appropriate tree planting locations, and prohibited tree species. One of the new definitions is for the "Tree Trust Fund," which allowed for the deposit of funds in-lieu of meeting tree or palm planting/replacement requirements. The backup material for the ordinance restated the language in the Tree Trust Fund definition, "...funds shall be used to off-set the City's costs for future trees and palms and tree trimming for parks and streetscapes," but did not give further details regarding how the Tree Trust Fund was to be used.

In 2008, the City Commission adopted Ordinance No. 35-08, which revised LDR Section 4.6.19(D) and (E), and Appendix A, "Definitions," to clarify regulations governing the Tree Trust Fund. Specifically, the revision addressed the calculation of the in-lieu fee based on caliper inch of tree diameter, and added a provision for developers that were "unwilling" to comply with planting/replacement requirements. The backup material for the ordinance did not discuss the use of money deposited into the Tree Trust Fund, and the definition continued to state, "These funds shall be used to off-set the City's costs for future trees and palms and tree trimming for parks and streetscapes."

Ordinance No. 22-15 (2015), Ordinance No. 19-17 (2017), and Ordinance No. 10-23 (2023) revised parts of LDR Section 4.6.19, including language concerning guidelines for tree mitigation and in-lieu fee, but did not change the definition of Tree Trust Fund or provide additional guidance on how the fund was to be used.

Description of Proposal

The proposed amendment amends the definition of the Tree Trust fund to allow Tree Trust Fund money to be used to pay for City maintenance activities that are necessary to help ensure the health and growth of trees. The proposed definition is as follows:

TREE TRUST FUND. An account established by the City's Finance Department into which in-lieu funds for owners and/or developers who are unable or unwilling to comply with the tree or palm planting/replacement requirements of the City's Land Development Regulations may deposit the in-lieu funds. These funds shall be used to off-set the City's costs for future trees and palms and tree trimming and maintenance for parks and streetscapes.

Review and Analysis

Pursuant to **LDR Section 2.4.7(A)**, amendments to the Land Development Regulations may be initiated by the City Commission, City Administration, or by a member of the public.

The proposed amendment is City-initiated. City Commission directed staff to make the update at their meeting on December 12, 2023.

LDR Section 2.4.7(A)(5), Findings

For any approval, the City Commission must make a finding that the text amendment is consistent with the Comprehensive Plan, and that the amendment furthers the implementation of an adopted neighborhood plan, if applicable. The following Policies of the adopted Comprehensive Plan are applicable to the proposed amendment:

Multiple Elements of the Comprehensive Plan include objectives and policies that support the preservation, maintenance and growth of tree resources, with an overall goal of increasing the tree canopy.

Policy CIE 2.2.3 *Consult City master plans and policies related to pedestrian, bicycle, transit, and vehicle transportation to advance and integrate multiple goals, including high-quality public spaces, place-making projects, “Green Streets”, expanding the tree canopy and landscaping beautification.*

Policy CSR 7.2.1 *Conduct an annual review of City operations and policies toward achieving Delray Beach’s green and sustainability goals and provide a report of recommendations to the City Commission regarding:… 5. Promotion of native tree planting, and native and environmentally-friendly landscaping.*

Policy CSR 8.4.3 *Develop data regarding current and projected heat island effects in the city. Encourage planting of native trees known to sequester carbon on available public and private lands and pursue programs and funding strategies designed to mitigate heat island effect and create carbon emission offsets through tree plantings and/or carbon mitigation banks.*

Proper maintenance is an important action associated with tree planting, as a mechanism to help increase tree canopy.

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

Policy CSR 4.2.15 *Implement and enforce regulations that promote proper tree and vegetative maintenance and pruning, and prevent hat-racking or topping practices which weaken trees.*

Policy OPR 3.5.5 *Within three years of the completion of the tree canopy study, develop neighborhood-specific strategies to protect and enhance the tree canopy, prioritizing tree planting in areas with the lowest tree canopy coverage, public facilities, and those with planned public improvements.*

Expanding the tree canopy on public property is specifically addressed as a City priority; proper maintenance is a mechanism for expanding or enhancing tree canopy.

Policy CSR 8.4.2 *Maintain the City’s status designated as a Tree City USA, and seek funding to develop and maintain an urban reforestation program, expand green infrastructure, reduce the heat island effect, and encourage local carbon sequestration and storage.*

Policy OPR 3.5.1 *Conduct a formal study of the existing tree canopy (with a native canopy component) and adopt strategies to protect and enhance the canopy. The study shall evaluate canopy coverage in both public rights-of way and on private properties to determine areas with inequitable coverage. The City shall monitor the tree(s) and produce a biennial report on the condition of the tree canopy (with a native canopy component).*

Review By Others

Green Implementation Advancement Board (GIAB). GIAB reviewed the Ordinance at their December 21, 2023, meeting and unanimously supported the amendment.

The **City Commission** is anticipated to review the proposed amendment on February 6, 2024 and March 5, 2024.

Options for Board Action

- A. Recommend **approval** to the City Commission of Ordinance No. 06-24, amending the Land Development Regulations Appendix A, "Definitions," to include a provision for use of the Tree Trust Fund to offset maintenance costs for trees and palms, by finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- B. Recommend **approval** to the City Commission of Ordinance No. 06-24, **as amended**, amending the Land Development Regulations Appendix A, "Definitions," to include a provision for use of the Tree Trust Fund to offset maintenance costs for trees and palms, by finding that the amendment as amended and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- C. Recommend **denial** to the City Commission of Ordinance No. 06-24, amending the Land Development Regulations Appendix A, "Definitions," to include a provision for use of the Tree Trust Fund to offset maintenance costs for trees and palms, by finding that the amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in Land Development Regulations.

Public and Courtesy Notices

Courtesy Notices are not required for this request.

Public Notice was posted to the City's website 10 calendar days prior to the meeting.

Public Notice was posted in the main lobby at City Hall 10 working days prior to the meeting.

Agenda was posted at least 5 working days prior to meeting.