



# AGENDA ITEM SUMMARY

MEETING DATE: October 7, 2019

AGENDA ITEM No.: 8

**FOR:**

City of Weston  Indian Trace Development District  Bonaventure Development District

**TITLE:**

An Ordinance of the City of Weston, Florida, amending the City Code of Ordinances by amending Chapter 122, "Tree Preservation," and Chapter 123, "Landscaping," to conform these provisions to recently adopted Chapter 2019-155, Laws of Florida; and providing for an effective date.

***Second and Final Hearing***

**SUMMARY EXPLANATION & BACKGROUND:**

The City regulates the pruning and/or removal of trees within the City. The State Legislature has adopted Chapter 2019-155, Laws of Florida, prohibiting local governments from requiring a permit prior to pruning or removing a tree on residential property or from requiring a property owner to mitigate for the removal of a tree on residential property. The City Commission finds that it is in the best interest of the City to amend its Code of Ordinances to accommodate the change in the Florida Law by adopting this Ordinance.

**REQUESTED ACTION:**

Approval.

**EXHIBITS (LIST):** (i) Ordinance, (ii) City of Weston Code of Ordinances, §1.01 Definitions, and (iii) Section 163.045, Florida Statutes

**PREPARED BY:**

Jamie Alan Cole, City Attorney

**PETITIONER/REPRESENTATIVE:**

Not Applicable

**RECOMMENDED FOR CONSIDERATION BY:**

John R. Flint, City Manager

Jamie Alan Cole, City Attorney

**FUNDING SOURCE:**

Not Applicable

**VOTING REQUIRED FOR PASSAGE:**

Majority  Majority Plus One  Unanimous

**COMMISSION ACTION:**

	M	2	Y	N	Approved as presented	
Commissioner Molina-Macfie					Approved as amended	
Commissioner Jaffe					Approved with conditions	
Commissioner Kallman					Continued to	
Commissioner Brown					Deferred to	
Mayor Stermer					To deny	

*Notes:*

**CITY OF WESTON, FLORIDA  
ORDINANCE NO. 2019-**

AN ORDINANCE OF THE CITY OF WESTON, FLORIDA, AMENDING THE CITY CODE OF ORDINANCES BY AMENDING CHAPTER 122, "TREE PRESERVATION," AND CHAPTER 123, "LANDSCAPING," TO CONFORM THESE PROVISIONS TO RECENTLY ADOPTED CHAPTER 2019-155, LAWS OF FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, First, the City regulates the pruning and/or removal of trees within the City; and

WHEREAS, Second, the State Legislature has adopted Chapter 2019-155, Laws of Florida, prohibiting local governments from requiring a permit prior to pruning or removing a tree on residential property or from requiring a property owner to mitigate for the removal of a tree on residential property when such pruning or removal is pursuant to documentation from a certified arborist or Florida licensed landscape architect that the tree presents a danger to persons or property; and

WHEREAS, Third, the City Commission finds that it is in the best interest of the City to amend the Code of Ordinances to accommodate the change in Florida law by adopting this ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Weston, Florida:

**Section 1.** The foregoing "Whereas" clauses are ratified and incorporated as the legislative intent and factual findings underlying this Ordinance.

## Section 2. Recommendation of Approval by the Local Planning Agency.

The City Commission, in its capacity as the Local Planning Agency, has reviewed the proposed Ordinance and recommends approval.

### Section 3. Amendment to Chapter 122.

Chapter 122, "Tree Preservation," of the Code of Ordinances of the City of Weston is amended to read as follows:

\* \* \*

122.03(A) ***Applicability.*** All Trees shall be subject to the provisions of this Chapter unless specifically exempt as set forth below.

122.03(B) *Exceptions.*

122.03(B)(1) Where existing Trees need to be removed or relocated due to a conflict with Utilities or a Roadway improvement project within the Public Right-Of-Way, a ~~Tree Removal / relocation permit shall be required~~, notice shall be provided to the City and property Owner not less than ~~six~~ weeks five business days prior to any removal or relocation activity, but no fees or bonds shall be

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1 required. Relocated and removed Trees shall be replaced where applicable in accordance with this  
2 Chapter.

3 \* \* \*

4  
5 122.03(B)(4) Pruning, trimming or Removal or relocation of any Tree on a Parcel of Land whose  
6 land use or zoning permits Single-Family, Duplex, townhomes and/or multi-family Dwelling Units  
7 residential properties with existing detached Single Family or Duplex Structures (other than a  
8 specimen Tree, preserved Tree, replacement Tree, or relocated Tree that requires a permit) shall be  
9 exempt from this Chapter provided that the property owner first obtains documentation from an  
10 arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect  
11 that the tree presents a danger to persons or property, however, compliance with the Landscaping  
12 Chapter of the Code for the installation of any new tree or voluntarily relocated tree is still required.  
13 This subsection does not apply to the exercise of specifically delegated authority for mangrove  
14 protection pursuant to ss. 403.9321-403.9333, Florida Statutes.

15  
16 122.03(B)(5) Trees that have been determined by the City to be dead are exempt from the permit  
17 and fee requirements of this Chapter.

18  
19 122.04(A) **Permit requirement.** ~~Except as noted in Section 122.03 above,~~ the removal or  
20 relocation of any Tree requires a Tree Removal/relocation permit from the City. No permit shall be  
21 issued for Tree Removal/relocation unless the City determines that there are no other means to  
22 prevent the removal/relocation of the Tree(s) (including, but not limited to, canopy trimming, root  
23 Pruning and installation of root barriers), and that one of the following exists:

24 \* \* \*

#### 25 26 27 Section 4. Amendment to Chapter 123.

28  
29 Chapter 123, "Landscaping," of the Code of Ordinances of the City of Weston is amended to  
30 read as follows:

31 \* \* \*

32  
33 123.11(B)(2) **Time limit for replacement of missing or substandard Landscape.** In the absence  
34 of documentation required by Section 163.045, Florida Statutes, excepting trees from the  
35 replacement requirement, ~~the~~ the property Owner is responsible for replacing any missing or  
36 substandard Landscape to ensure that the property complies with the Landscape plan within 60 days  
37 of the City's notice of non-compliance. Notwithstanding the foregoing, if the City determines that the  
38 missing or substandard Landscape was caused by a Disaster, the property Owner shall be responsible  
39 for the replacement of the missing or substandard Landscape in accordance with the following  
40 provisions:

#### 41 42 Section 5. Codification.

43  
44 It is the intention of the City Commission that the provisions of this Ordinance become and  
45 be made part of the City Code, and that the Sections of this Ordinance and Code may be renumbered

46  
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made from First Reading.

1 or relettered and the word "ordinance" may be changed to "section" or such other appropriate word  
2 or phrase to accomplish such intentions.

3

4 **Section 6. Severability.**

5

6 Should any section, paragraph, sentence, clause, phrase or other part of this Ordinance be  
7 declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity  
8 of this Ordinance as a whole or any portion thereof, other than the part so declared to be invalid.

9

10 **Section 7. Conflict.**

11

12 That all Sections or parts of Sections of the Code of Ordinances, all Ordinances or parts of  
13 Ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed  
14 to the extent of such conflict.

15

16 **Section 8. Effective Date.**

17

18 This Ordinance shall become effective upon passage and adoption.

19

20 PASSED ON FIRST READING August 19, 2019.

21

22 PASSED AND ADOPTED ON SECOND READING \_\_\_\_\_, 2019.

23

24 CITY COMMISSION  
25 CITY OF WESTON, FLORIDA

26

27 By \_\_\_\_\_  
28 Daniel J. Stermer, Mayor

29 ATTEST:

30

31

32

33 Patricia A. Bates, City Clerk

34

35 Approved as to form and legality  
36 for the use of and reliance by the  
37 City of Weston only:

38

39

40

Jamie Alan Cole, City Attorney

Roll Call:  
Commissioner Molina-Macfie \_\_\_\_\_  
Commissioner Jaffe \_\_\_\_\_  
Commissioner Kallman \_\_\_\_\_  
Commissioner Brown \_\_\_\_\_  
Mayor Stermer \_\_\_\_\_

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## City of Weston Code of Ordinances

### 1.01 DEFINITIONS.

1.01(A) ***General rule.*** Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in Law shall be understood according to their technical import.

1.01(B) ***FEMA (Federal Emergency Management Agency) definitions.*** Technical definitions for use in connection with FEMA may be found in Chapter 64.

1.01(C) ***Definitions.*** For the purpose of this Code, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Parentheticals following the defined term are included to demonstrate the context for its use.

**COMMON AREA.** The portion of land(s) within a Development that is owned by an Association of the property Owners within the Development or the Owner of the Development and is available for use by, or the benefit of, the occupants of the Development.

## 2019 Florida Statutes

### **163.045 Tree pruning, trimming, or removal on residential property. —**

(1) A local government may not require a notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on residential property if the property owner obtains documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect that the tree presents a danger to persons or property.

(2) A local government may not require a property owner to replant a tree that was pruned, trimmed, or removed in accordance with this section.

(3) This section does not apply to the exercise of specifically delegated authority for mangrove protection pursuant to ss. 403.9321-403.9333.

**History.** —s. 1, ch. 2019-155.

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CS/HB 1159

2019 Legislature

1  
2 An act relating to private property rights; creating  
3 s. 163.045, F.S.; prohibiting local governments from  
4 requiring notices, applications, approvals, permits,  
5 fees, or mitigation for the pruning, trimming, or  
6 removal of trees on residential property if a property  
7 owner obtains specified documentation; prohibiting  
8 local governments from requiring property owners to  
9 replant such trees; providing an exception for  
10 mangrove protection actions; amending s. 163.3209,  
11 F.S.; deleting a provision that authorizes electric  
12 utilities to perform certain right-of-way tree  
13 maintenance only if a property owner has received  
14 local government approval; creating s. 70.002, F.S.;  
15 creating a Property Owner Bill of Rights; requiring  
16 county property appraisers to provide specified  
17 information on their websites; providing an effective  
18 date.  
19

20 Be It Enacted by the Legislature of the State of Florida:

21  
22 Section 1. Section 163.045, Florida Statutes, is created  
23 to read:

24 163.045 Tree pruning, trimming, or removal on residential  
25 property.—

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CS/HB 1159

2019 Legislature

26       (1) A local government may not require a notice,  
27 application, approval, permit, fee, or mitigation for the  
28 pruning, trimming, or removal of a tree on residential property  
29 if the property owner obtains documentation from an arborist  
30 certified by the International Society of Arboriculture or a  
31 Florida licensed landscape architect that the tree presents a  
32 danger to persons or property.

33       (2) A local government may not require a property owner to  
34 replant a tree that was pruned, trimmed, or removed in  
35 accordance with this section.

36       (3) This section does not apply to the exercise of  
37 specifically delegated authority for mangrove protection  
38 pursuant to ss. 403.9321-403.9333.

39       Section 2. Section 163.3209, Florida Statutes, is amended  
40 to read:

41       163.3209 Electric transmission and distribution line  
42 right-of-way maintenance.—After a right-of-way for any electric  
43 transmission or distribution line has been established and  
44 constructed, no local government shall require or apply any  
45 permits or other approvals or code provisions for or related to  
46 vegetation maintenance and tree pruning or trimming within the  
47 established right-of-way. The term "vegetation maintenance and  
48 tree pruning or trimming" means the mowing of vegetation within  
49 the right-of-way, removal of trees or brush within the right-of-  
50 way, and selective removal of tree branches that extend within

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51 the right-of-way. The provisions of this section do not include  
52 the removal of trees outside the right-of-way, which may be  
53 allowed in compliance with applicable local ordinances. Prior to  
54 conducting scheduled routine vegetation maintenance and tree  
55 pruning or trimming activities within an established right-of-  
56 way, the utility shall provide the official designated by the  
57 local government with a minimum of 5 business days' advance  
58 notice. Such advance notice is not required for vegetation  
59 maintenance and tree pruning or trimming required to restore  
60 electric service or to avoid an imminent vegetation-caused  
61 outage or when performed at the request of the property owner  
62 adjacent to the right-of-way, ~~provided that the owner has~~  
63 ~~approval of the local government, if needed.~~ Upon the request of  
64 the local government, the electric utility shall meet with the  
65 local government to discuss and submit the utility's vegetation  
66 maintenance plan, including the utility's trimming  
67 specifications and maintenance practices. Vegetation maintenance  
68 and tree pruning or trimming conducted by utilities shall  
69 conform to ANSI A300 (Part I)-2001 pruning standards and ANSI  
70 Z133.1-2000 Pruning, Repairing, Maintaining, and Removing Trees,  
71 and Cutting Brush—Safety Requirements. Vegetation maintenance  
72 and tree pruning or trimming conducted by utilities must be  
73 supervised by qualified electric utility personnel or licensed  
74 contractors trained to conduct vegetation maintenance and tree  
75 trimming or pruning consistent with this section or by Certified

Page 3 of 6

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CS/HB 1159

2019 Legislature

76 Arborists certified by the Certification Program of the  
77 International Society of Arboriculture. A local government shall  
78 not adopt an ordinance or land development regulation that  
79 requires the planting of a tree or other vegetation that will  
80 achieve a height greater than 14 feet in an established electric  
81 utility right-of-way or intrude from the side closer than the  
82 clearance distance specified in Table 2 of ANSI Z133.1-2000 for  
83 lines affected by the North American Electric Reliability  
84 Council Standard, FAC 003.1 requirement R1.2. This section does  
85 not supersede or nullify the terms of specific franchise  
86 agreements between an electric utility and a local government  
87 and shall not be construed to limit a local government's  
88 franchising authority. This section does not supersede local  
89 government ordinances or regulations governing planting,  
90 pruning, trimming, or removal of specimen trees or historical  
91 trees, as defined in a local government's ordinances or  
92 regulations, or trees within designated canopied protection  
93 areas. This section shall not apply if a local government  
94 develops, with input from the utility, and the local government  
95 adopts, a written plan specifically for vegetation maintenance,  
96 tree pruning, tree removal, and tree trimming by the utility  
97 within the local government's established rights-of-way and the  
98 plan is not inconsistent with the minimum requirements of the  
99 National Electrical Safety Code as adopted by the Public Service  
100 Commission; provided, however, such a plan shall not require the

Page 4 of 6

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CS/HB 1159

2019 Legislature

101 planting of a tree or other vegetation that will achieve a  
102 height greater than 14 feet in an established electric right-of-  
103 way. Vegetation maintenance costs shall be considered  
104 recoverable costs.

105 Section 3. Section 70.002, Florida Statutes, is created to  
106 read:

107 70.002 Property Owner Bill of Rights.-Each county property  
108 appraiser office shall provide on its website a Property Owner  
109 Bill of Rights. The purpose of the bill of rights is to identify  
110 certain existing rights afforded to property owners but is not a  
111 comprehensive guide. The Property Owner Bill of Rights does not  
112 create a civil cause of action. The Property Owner Bill of  
113 Rights must state:

114  
115 PROPERTY OWNER

116 BILL OF RIGHTS

117 This Bill of Rights does not represent all of your rights under  
118 Florida law regarding your property and should not be viewed as  
119 a comprehensive guide to property rights. This document does not  
120 create a civil cause of action and neither expands nor limits  
121 any rights or remedies provided under any other law. This  
122 document does not replace the need to seek legal advice in  
123 matters relating to property law. Laws relating to your rights  
124 are found in the State Constitution, Florida Statutes, local  
125 ordinances, and court decisions. Your rights and protections

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126 include:127 1. The right to acquire, possess, and protect your  
128 property.129 2. The right to use and enjoy your property.130 3. The right to exclude others from your property.131 4. The right to dispose of your property.132 5. The right to due process.133 6. The right to just compensation for property taken for a  
134 public purpose.135 7. The right to relief, or payment of compensation, when a  
136 new law, rule, regulation, or ordinance of the state or a  
137 political entity unfairly affects your property.

138 Section 4. This act shall take effect July 1, 2019.