

**CITY OF ATLANTIC BEACH
CITY COMMISSION
STAFF REPORT**

AGENDA ITEM: Resolution No. 21-62 supporting legislation to close loopholes and create standards in current law exemptions from municipal tree ordinances that have caused litigation and abuses, including the clear-cutting of land pre-development and the removal of healthy trees that present little, if any, risk to persons or structures.

TODAY'S DATE: Nov. 10, 2021

MEETING DATE: Nov. 22, 2021

SUBMITTED BY: Kevin Hogencamp, Deputy City Manager *TLH*

PRIORITY: Supports "Environmental Leadership: An initiative validating COAB's commitment to being a sustainable, resilient community"

SUMMARY: Under Section 163.045, Florida Statutes, which was created in 2019 after several hurricanes caused extensive vegetation damage, local governments 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 owner obtains documentation from an arborist or a Florida-licensed landscape architect that the tree presents a danger to persons or property.

This law has left local governments powerless in policing bad actors and caused unnecessary problems for both municipalities and developers; and. As such, current law should be amended to apply only to developed single-family residential property, identify industry-appropriate standards for assessing tree risk and identify necessary documentation.

Further, key terms in the 2019 law are vague and undefined, which has led to conflict and litigation, specifically "danger," "residential property" and "documentation"; and Section 163.045, Florida Statutes, should be clarified to remove these ambiguities and define these key terms.

RECOMMENDATION: Commission consider approving Resolution No. 21-62

BUDGET: N.A.

ATTACHMENTS: Resolution No 21-62

CITY MANAGER: *Frank Corli*

RESOLUTION NO. 21-62

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF ATLANTIC BEACH, FLORIDA, SUPPORTING STATE LEGISLATION TO CLOSE LOOPHOLES AND CREATE STANDARDS IN CURRENT LAW EXEMPTIONS FROM MUNICIPAL TREE ORDINANCES THAT HAVE CAUSED LITIGATION AND ABUSES, INCLUDING THE CLEAR-CUTTING OF LAND PRE-DEVELOPMENT AND THE REMOVAL OF HEALTHY TREES THAT PRESENT LITTLE, IF ANY, RISK TO PERSONS OR STRUCTURES; DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THIS RESOLUTION TO THE FLORIDA GOVERNOR, THE CITY OF JACKSONVILLE, THE FLORIDA LEAGUE OF CITIES, AND THE DUVAL COUNTY DELEGATION OF THE FLORIDA LEGISLATURE, FOR DISTRIBUTION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the continued protection and maintenance of healthy Florida tree canopies is beneficial for habitat, climate adaptation and mitigation, stormwater management, quality of life, and community character; and

WHEREAS, the City of Atlantic Beach and many other Florida communities utilize tree-protection codes to define their communities' character and standards of life, and local governments should be restored local controls to protect these invaluable natural resources; and

WHEREAS, under Section 163.045, Florida Statutes, which was created in 2019 after several hurricanes caused extensive vegetation damage, local governments 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 owner obtains documentation from an arborist or a Florida-licensed landscape architect that the tree presents a danger to persons or property; and

WHEREAS, this law has left local governments powerless in policing bad actors and caused unnecessary problems for both municipalities and developers; and,

WHEREAS, current law should be amended to apply only to developed single-family residential property, identify industry-appropriate standards for assessing tree risk and identify necessary documentation; and

WHEREAS, further, key terms in the 2019 law are vague and undefined, which has led to conflict and litigation, specifically "danger," "residential property" and "documentation." Section 163.045, Florida Statutes, should be clarified to remove these ambiguities and define these key terms; and

WHEREAS, local government is more closely connected to their residents' wishes and needs than the state government, and as such, should be restored the ability to adopt regulations that reflect the values of their respective communities and the desires of their residents; and

WHEREAS, the City of Atlantic Beach seeks to preserve and protect home rule authority for Atlantic Beach and other Florida communities; and

WHEREAS, along with Florida League of Cities, the City of Atlantic Beach supports State legislation to close loopholes and create standards in current law exemptions from municipal tree ordinances that have caused litigation and abuses, including the clear-cutting of land pre-development and the removal of healthy trees that present little, if any, risk to persons or structures.

NOW THEREFORE, be it resolved by the City Commission of the City of Atlantic Beach, Florida:

Section 1. That the City Commission of the City of Atlantic Beach supports State legislation to close loopholes and create standards in current law exemptions from municipal tree ordinances that have caused litigation and abuses, including the clear-cutting of land pre-development and the removal of healthy trees that present little, if any, risk to persons or structures.

Section 2. That the City Commission directs the City Clerk to transmit a copy of this Resolution to the Florida Governor, the City of Jacksonville, the Florida League of Cities, and the Duval County delegation of the Florida Legislature, for distribution.

Section 3. That all resolutions or parts of resolutions in conflict with this Resolution are repealed to the extent of such conflict.

Section 4. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED by the City Commission of the City of Atlantic Beach, this 22nd day of November, 2021.

Ellen Glasser, Mayor

Attest:

Donna L. Bartle, City Clerk

Approved as to form and correctness:

Brenna M. Durden, City Attorney