

City of Jacksonville, Florida

Lenny Curry, Mayor

City Hall at St. James
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Jacksonville, FL 32202
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June 8, 2023

The Honorable Terrance Freeman, President
The Honorable Kevin Carrico, LUZ Chair
And Members of the City Council
City Hall
117 West Duval Street
Jacksonville, Florida 32202

**RE: Planning Commission Advisory Report
Ordinance No.: 2023-324**

Dear Honorable Council President Freeman, Honorable Council Member and LUZ Chairperson Carrico and Honorable Members of the City Council:

Pursuant to the provisions of Section 30.204 and Section 656.129, *Ordinance Code*, the Planning Commission respectfully offers this report for consideration by the Land Use and Zoning Committee.

Planning and Development Department Recommendation: **Approve**

Planning Commission Recommendation: **Approve**

Planning Commission Commentary: There were no speakers in opposition. Council Member Becton explained the genesis of the ordinance and why it is needed. The Commissioners agreed there is a need for the change to the Code.

Planning Commission Vote: 7-0

Alex Moldovan, Chair Aye

Ian Brown, Vice Chair Aye

Jason Porter, Secretary Aye

Marshall Adkison Aye

Daniel Blanchard Aye

Jordan Elsbury Aye

David Hacker Aye

Morgan Roberts Aye

If you have any questions or concerns, please do not hesitate to contact me at your convenience.

Sincerely,

A handwritten signature in blue ink that reads "Bruce E. Lewis". The signature is written in a cursive style with a large initial "B" and "L".

Bruce E. Lewis
City Planner Supervisor – Current Planning Division
City of Jacksonville - Planning and Development Department
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REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT

The Planning and Development Department hereby forwards to the Planning Commission; Land Use and Zoning Committee; and City Council its comments and recommendations on:

ORDINANCE 2023-324

AN ORDINANCE CONCERNING CHAPTER 656 (ZONING CODE), ORDINANCE CODE; AMENDING PART 12 (LANDSCAPE AND TREE PROTECTION REGULATIONS), SUBPART B (TREE PROTECTION), SECTION 656.1208 (ENFORCEMENT; VIOLATIONS AND PENALTIES; STOPPING WORK, CORRECTION OF VIOLATION), TO CREATE AND ADD SETTLEMENT POLICY CRITERIA AUTHORIZING THE REDUCTION OF CERTAIN FINES IMPOSED FOR VIOLATIONS OF PART 12 (LANDSCAPE AND TREE PROTECTION REGULATIONS), SUBPART B, (TREE PROTECTION), DIFFERENTIATING BETWEEN THE MITIGATION PAYMENT AND THE FINE FOR TREE REMOVAL WITHOUT A PERMIT, REPLACING THE PLANNING COMMISSION WITH THE TREE COMMISSION AS THE APPROPRIATE FORUM FOR APPEALS OF NOTICES OF VIOLATIONS AND ASSESSMENT OF FINES UNDER SUBPART B (TREE PROTECTION); PROVIDING FOR CODIFICATION INSTRUCTIONS; PROVIDING AN EFFECTIVE DATE.

I. GENERAL INFORMATION

The bill amends Ordinance Code Chapter 656 – Zoning Code – in Part 12, Subpart B – Tree Protection – with regard to the unpermitted removal of trees by a property owner, a contractor, and/or an agent for the owner. A differentiation is set out between (1) when the amount of trees, measured in Diameter Breast Height (“DBH”) inches, is able to be determined (stumps or other evidence exists); and (2) when the amount of trees is not able to be determined (clearcutting with stumps removed). It also differentiates between the mitigation that is required, and the fine that will be assessed. While the mitigation amount will be calculated as if a permit was issued, a mechanism for the reduction and settlement of fines is provided when the amount of trees removed is determinable. The fine reduction mechanism for the Director of Planning is codified as “The Policy.” Those policy criteria include, among other factors: (1) whether the failure to comply with the tree protection regulations was intentional or unintentional; (2) whether the violation occurred before with this individual or corporate entity; (3) whether the violations occurred during or after civil plan reviews; (4) the degree of the violator’s knowledge of the City’s tree protection regulations; and (5) the amount of tree canopy lost because of the violation. Appeals of the Director’s decision will go to the Tree Commission, rather than the Planning Commission, as final agency action (appealable in Circuit Court).

If the amount of trees removed is not determinable (clearcutting), the calculation by the Chief is only for the mitigation (Clearcutting Contribution Amount), which amount is not eligible for reduction. Decisions by the Chief on the calculation are appealable to the Tree Commission as final agency action. If a violation occurs or is occurring, the trigger for a “Stop Work” order is broadened to include stopping the removal of evidence (stumps), and clarifies that a Stop Work order means to stop all work, not just tree removal.

II. EVALUATION

A. The need and justification for the change

The Public Trust Environmental Legal Institute of Florida, Inc. (Public Trust) and three City residents filed suit against the City alleging that the City was using funds generated from tree mitigation payments collected pursuant to activities regulated by Article 25 of the City Charter in a manner not consistent with the intent of the citizen-initiated Charter amendment. To end the litigation the parties negotiated a mutually agreeable settlement that was approved by the Council via Ordinance 2017-395-E. The plaintiffs have proposed to amend that settlement agreement to allow for modifications to Exhibits A and D of that agreement and have requested that the Council enact their proposed Ordinance Code amendments to address unanticipated situations that have arisen in the enforcement of the tree regulations since the effective date of the settlement agreement.

B. The relationship of the proposed amendment to the Comprehensive Plan and the work of the Department with appropriate consideration as to whether the proposed amendment will further the purposes of the Zoning Code and Comprehensive Plan.

The proposed ordinance does not conflict with the 2045 Comprehensive Plan.

III. RECOMMENDATION

The Planning and Development Department recommends that **Ordinance 2023-324 be approved.**