

City of Jacksonville, Florida

Lenny Curry, Mayor

City Hall at St. James
117 W. Duval St.
Jacksonville, FL 32202
(904) 630-CITY
www.coj.net

20 August 2020

The Honorable Tommy Hazouri, President
The Honorable Michael Boylan, LUZ Chair
And Members of the City Council
City Hall
117 West Duval Street
Jacksonville, Florida 32202

**RE: Planning Commission Advisory Report
Ordinance No.: 2020-409**

Dear Honorable Council President Hazouri, Honorable Council Member and LUZ Chairperson Boylan 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**

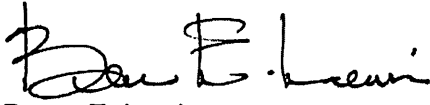
Planning Commission Commentary: There were no speakers in opposition. The Commissioners loosening of the tree regulations was a step in the right direction.

Planning Commission Vote: 6-0

Joshua Garrison, Chair	Aye
Dawn Motes, Vice Chair	Absent
David Hacker, Secretary	Aye
Marshall Adkison	Absent
Daniel Blanchard	Aye
Ian Brown	Aye
Alex Moldovan	Aye
Jason Porter	Aye

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

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce E. Lewis". The signature is written in a cursive, flowing style.

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 2020-409

AN ORDINANCE AMENDING CHAPTER 656 (ZONING CODE), PART 12 (LANDSCAPE AND TREE PROTECTION REGULATIONS), SUBPART B (TREE PROTECTION), SECTION 656.1205 (REMOVAL OF PROTECTED TREES PROHIBITED; EXCEPTIONS), ORDINANCE CODE, TO CREATE A NEW EXEMPTION FOR CITY MAINTAINED CEMETERIES AND REMEDIATION SITES IN CERTAIN CIRCUMSTANCES; PROVIDING AN EFFECTIVE DATE.

I. GENERAL INFORMATION

The bill adds language requiring the cleanup of contaminated soils, sediments, surface waters, and groundwater, including hazardous waste and solid waste debris materials and air discharges and cemeteries where trees interfere with burial plots and associated structures. The primary methodology used for the City of Jacksonville-owned sites is to remove the upper 2.0-foot of soils, place a clean soil cap, establish a vegetative cover, and place engineering and covenant restrictions on the parcel to eliminate threats to human health and the environment. Clearing and grubbing to remove the underbrush, timber, and root mat/balls are essential to placing the soil cap. Contaminated sites subject to the tree ordinance requirements severely affect the cost of remediation that limits the Solid Waste Division from getting regulatory closure of these sites in a timely manner. The remediation of contamination where the City of Jacksonville has been determined to be the Responsible Party for cleanup also includes cemeteries requiring maintenance, repair, and/or rehabilitation where the cemetery has no “perpetual care” entity.

II. EVALUATION

A. The need and justification for the change

Contaminated sites subject to the tree ordinance requirements severely affect the cost of remediation that limits the Solid Waste Division from getting regulatory closure of these sites in a timely manner. The remediation of contamination where the City of Jacksonville has been determined to be the Responsible Party for cleanup also includes cemeteries requiring maintenance, repair, and/or rehabilitation where the cemetery has no “perpetual care” entity.

B. Consistency with the Comprehensive Plan.

This bill is consistent with numerous goals, policies, and objectives of the Comprehensive Plan, including but not limited to:

Future Land Use Element (FLUE) Policy 1.1.8

Ensure that all future development and redevelopment meets or exceeds the requirements of all Land Development Regulations, including, but not limited to zoning, subdivision of land, landscape and tree protection regulations, and signage, as established and adopted by the City, State of Florida and the federal government, unless such requirements have been previously waived by those governmental bodies.

FLUE Policy 4.1.5

Continue enforcement of existing Land Development Regulations in the City, which are consistent with this plan, including:

- Zoning Code
- Code of Subdivision Regulations
- Flood Plain Regulations
- Landscape and Tree Protection Regulations
- Housing Safety Code
- Unsafe Buildings and Structures Code
- Community Redevelopment Programs
- Building Code

III. RECOMMENDATION

The Planning and Development Department recommends that **Ordinance 2020-409** be **APPROVED**.

1 Introduced by the Council President at the Request of the Mayor:
2
3

4 **ORDINANCE 2020-409**

5 AN ORDINANCE AMENDING CHAPTER 656 (ZONING
6 CODE), PART 12 (LANDSCAPE AND TREE PROTECTION
7 REGULATIONS), SUBPART B (TREE PROTECTION),
8 SECTION 656.1205 (REMOVAL OF PROTECTED TREES
9 PROHIBITED; EXCEPTIONS), *ORDINANCE CODE*, TO
10 CREATE A NEW EXEMPTION FOR CITY MAINTAINED
11 CEMETERIES AND REMEDIATION SITES IN CERTAIN
12 CIRCUMSTANCES; PROVIDING AN EFFECTIVE DATE.

13
14 **BE IT ORDAINED** by the Council of the City of Jacksonville:

15 **Section 1. Amending Chapter 656 (Zoning Code), Part 12**
16 **(Landscape and Tree Protection Regulations), Subpart B (Tree**
17 **Protection), Ordinance Code.** Chapter 656 (Zoning Code), Part 12
18 (Landscape and Tree Protection Regulations), Subpart B (Tree
19 Protection), *Ordinance Code*, is hereby amended to read as follows:

20 **CHAPTER 656 - ZONING CODE**

21 * * *

22 **PART 12. - LANDSCAPE AND TREE PROTECTION REGULATIONS**

23 * * *

24 **SUBPART B. - TREE PROTECTION**

25 * * *

26 **Sec. 656.1205. - Removal of protected trees prohibited;**
27 **exceptions.**

28 (a) No person, organization, society, association or
29 corporation, or any agent or representative thereof, directly or
30 indirectly, shall cut down, remove, damage or destroy, or shall
31 authorize the cutting down, removal, damage, or destruction of any

1 protected tree, as defined in Section 656.1203(bb) hereof, or shall
2 commit any act or authorize the commission of any act which
3 physically removes a protected tree or causes a tree to die, such
4 as damage inflicted upon the root system by heavy machinery,
5 chemicals or paving, changing the natural grade above the root
6 system and tree damage permitting infection or pest infestation,
7 without first having obtained a permit as herein provided.

8 (b) The following protected trees are exempted from the
9 provisions of subsection (a). Where an exemption is claimed, an
10 applicant must obtain a permit pursuant to Section 656.1206 for a
11 fee as found in www.coj.net/fees, and provide supporting evidence
12 that the applicant is entitled to the exemption, as requested by
13 the Building Inspection Division:

14 * * *

15 (9) Trees in cemeteries meeting one of the following
16 criteria:

17 A. Any tree located on an individual cemetery
18 plot and removed at the request and with the consent of an
19 individual cemetery plot owner; provided, however, that this
20 exemption shall not apply to the expansion of existing cemeteries.
21 As used in this subsection, *cemetery plot* shall mean a lot in any
22 cemetery designated and maintained for the interment of a human
23 body, or bodies or remains thereof and for no other purpose. As
24 used in this subsection, *cemetery plot owner* shall mean a person,
25 or his representative, in whose name a plot is listed in a cemetery
26 organization's office as the owner of the exclusive right of
27 sepulture or burial right; or who holds from a cemetery
28 organization, a certificate of ownership or other instrument of
29 conveyance of the exclusive right of sepulture or burial right in a
30 particular plot in the organization's cemetery. If the cemetery
31 plot owner or any living relative of the deceased cannot be located

1 after a good faith effort by the City to search for the owner, the
2 City may remove the tree if it is damaging headstones or other
3 structures associated with the plot; or

4 B. Any tree located in a cemetery that is being
5 maintained by the City of Jacksonville pursuant to Sec. 497.284,
6 Florida Statutes (Abandoned cemeteries; immunity; actions) that:

7 (i) is not located on an individual cemetery
8 plot within such cemetery; and

9 (ii) is interfering with structures such as a
10 road, fence, monuments, mausoleum, columbarium, ossuary, or other
11 structure or place used or intended to be used for the interment or
12 disposition of cremated remains.

13 * * *

14 (12) Trees located within the areal extent of
15 contamination or in very close proximity to the contamination and
16 removal is necessary for implementation of a remediation plan
17 required to assess or remove contaminants in soil, surface water or
18 groundwater, pursuant to a governmental Consent Order or Decree or
19 other remedial action plan required by a regulatory agency.

20 * * *

21 **Section 2. Effective Date.** This ordinance shall become
22 effective upon signature by the Mayor or upon becoming effective
23 without the Mayor's signature.

24
25 Form Approved:

26
27 /s/ Kealey A. West

28 Office of General Counsel

29 Legislation prepared by: Kealey A. West

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