

**CITY OF MIRAMAR
PROPOSED CITY COMMISSION AGENDA ITEM**

First Reading Date: May 20, 2020

Second Reading Date: June 17, 2020

Presenter's Name and Title: Eric Silva, Director, on behalf of the Community Development Department

Prepared By: Michael Alpert, Principal Planner, and Sue-ling Rosario, Landscape Inspector

Temp. Ord. Number: 1750

Item Description: SECOND READING of Temp. Ord. No. 1750, AMENDING PROPOSED LAND DEVELOPMENT CODE CHAPTER 5 STANDARDS, SECTION 506.16 TREE TRUST FUND; MAKING FINDINGS; PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING THAT OFFICIALS ARE AUTHORIZED TO TAKE ACTION; AND PROVIDING FOR AN EFFECTIVE DATE. (Passed 1st Reading on 5/20/20) (*Community Development Director Eric Silva*) (*Requested by Commissioner Alexandra P. Davis*)

Consent ☐ Resolution ☐ Ordinance ☒ Quasi-Judicial ☐ Public Hearing ☐

Instructions for the Office of the City Clerk:

Public Notice – As required by the Sec. _____ of the City Code and/or Sec. 166.041, Florida Statutes, public notice for this item was provided as follows: on 5/10/2020 in a legal display ad in the Sun-Sentinel; by the posting the property on _____ and/or by sending mailed notice to property owners within _____ feet of the property on _____ (fill in all that apply)

Special Voting Requirement – As required by Sec. _____, of the City Code and/or Sec. _____, Florida Statutes, approval of this item requires a _____ (unanimous, 4/5ths etc.) vote by the City Commission.

Fiscal Impact: Yes ☐ No ☒

REMARKS:


Content:

- Agenda Item Memo from the City Manager to City Commission
- Ordinance TO 1750
 - Exhibit A: Amended language for Chapter 5, Section 506.16
- Attachment(s)
 - Attachment 1: Standards for Review for LDC Amendment Staff Report



**CITY OF MIRAMAR
INTEROFFICE MEMORANDUM**

TO: Mayor, Vice Mayor, & City Commissioners

FROM: *for* Vernon E. Hargray, City Manager 

BY: Eric Silva, Community Development Director

DATE: June 11, 2020

RE: SECOND READING of Temp. Ord. No. 1750, amending the Land Development Code to allow for the use of Tree Trust Fund monies for a tree trimming/root pruning program for single-family owner-occupied residences

RECOMMENDATION: The City Manager recommends approval of Temp. Ord. No. 1750, amending a subsection of the City's Land Development Code ("LDC") to allow for the use of Tree Trust Fund monies for a tree trimming/root pruning program for single-family owner-occupied residences.

ISSUE: City Commission approval is required for any amendments to the Land Development Code.

BACKGROUND: This Ordinance proposes to revise a subsection of a companion ordinance, Temporary Ordinance 1741 on the same agenda. Temporary Ordinance 1741 is creating a portion of the new LDC Chapter 5 Standards, including Article III, Landscaping, Section 506 Landscaping Standards. This ordinance is proposed to specifically amend Subsection 506.16 Tree Trust Fund. The amendment would allow a portion of the funds to be used annually to assist homeowners to help pay for tree trimming and/or root pruning, whereas currently Tree Trust Fund monies can only be used for landscaping located on public properties. The City will be establishing a Tree Trimming Program to assist qualified residents who need financial assistance to properly trim and/or prune trees on their properties, as needed, and the City's established Tree Trust Fund would be one potential revenue source for this program. The purpose of the Tree Trimming Program is to assist residents with potentially hazardous trees encroaching on existing infrastructure, power lines, pavement, or homes. The amendment is as follows:

506.16.6. Exceptions. Disbursement of Miramar Tree Preservation Account funds may be used for the preservation, maintenance, or restoration of tree ecosystems on owner-occupied, single-family residential properties and right-of-way within the City of Miramar that meet criteria for the City's tree trimming program. The purpose of the tree trimming program is to assist residents with maintaining potentially hazardous trees and roots encroaching on existing infrastructure, power lines, homes or pavement.

The City's Local Planning Agency, the Planning & Zoning Board, heard this item on May 12, 2020, making a finding that the amendment is consistent with the Comprehensive Plan.

COMPREHENSIVE PLAN ELEMENTS: Staff believes that the proposed ordinance is consistent with the several elements, goals, objectives, and policies of the Comprehensive Plan, including:

Future Land Use Element:

Goal: Maintain a long-range future land use pattern which promotes the orderly and well-managed growth and development of the community, producing quality neighborhoods, enhancing the city's aesthetic appeal, conserving the natural environment and open space, supporting a vibrant economic tax base, and minimizing risks to the public's health, safety and welfare.

Policy 2.1 - The City shall enforce the Land Development Code provisions for minimum adequate stormwater management including wetland preservation/restoration, open space, including historic and archaeological sites, safe and convenient on- site traffic flow, adequate parking, landscaping and signage and standards and clustering of residential units, by 2020.

Policy 5E.3 - Maintain and improve existing architectural, site, signage, lighting and landscaping design standards contained in the City's Land Development Code to guide the recommendations of City staff and the decisions of the Planning and Zoning Board, and City Commission.

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**CITY OF MIRAMAR
MIRAMAR, FLORIDA**

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA, AMENDING PROPOSED LAND DEVELOPMENT CODE CHAPTER 5 STANDARDS, SECTION 506.16 TREE TRUST FUND; MAKING FINDINGS; PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING THAT OFFICIALS ARE AUTHORIZED TO TAKE ACTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City desires to update the entire Land Development Code (“LDC”) in a phased manner with the intent to: maintain a long-range future land use pattern which promotes the orderly and well-managed growth and development of the community, producing quality neighborhoods, enhancing the City’s aesthetic appeal, conserving the natural environment and open space, supporting a vibrant economic tax base, and minimizing risks to the public’s health, safety and welfare; and

WHEREAS, this phase of LDC revision, through a companion ordinance, creates new Chapter 5, entitled “Standards”, to include two new sections, 501, “General Provisions”, and 506, “Landscaping Standards”, to amend and replace existing language in existing Chapters 8 and 9, mostly related to landscaping provisions, and repeals Chapter 9, “Landscaping Requirements and Tree Conservation” in its entirety; and

WHEREAS, the City Manager recommends amending a portion of new Chapter 5 “Standards”, specifically Section 506.16 Tree Trust Fund (attached hereto as Exhibit “A”) as shown herein, to update regulatory requirements and procedures of the LDC; and
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WHEREAS, pursuant to Section 302.6 of the existing LDC, the City Commission has reviewed this proposed amendment to the LDC, considered the general purpose and standards set forth in Chapter 3 of the LDC, and considered the recommendation of the Planning and Zoning Board; and

WHEREAS, pursuant to Section 302.7 of the existing LDC, the City Commission finds that the proposed amendment is legally required to meet the revision of the LDC; and

WHEREAS, pursuant to Section 302.7 of the existing LDC, the City Commission finds that the proposed amendment is consistent with the goals, objectives, and policies of the City's Comprehensive Plan; and

WHEREAS, pursuant to Section 302.7 of the existing LDC, the City Commission finds that the proposed amendment is consistent with the authority and purpose of the LDC, because the LDC revisions will aid in the harmonious, orderly, and progressive development of the City by simplifying development requirements and assuring that the standards are consistent with the Comprehensive Plan; and

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, has reviewed the City's Comprehensive Plan and in accordance with Section 163.3194, Florida Statutes, and Section 302.7(2) of the LDC, finds that this Ordinance is consistent with the goals, objectives, and policies of the Comprehensive Plan; and

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WHEREAS, pursuant to Section 302.7 of the existing LDC, the Planning and Zoning Board has found that the proposed amendment is consistent with the authority and purpose of the LDC, because the LDC revisions will aid in the harmonious, orderly, and progressive development of the City by simplifying development requirements and assuring that the standards are consistent with the Comprehensive Plan; and

WHEREAS, the City Commission hereby adopts the findings of the Planning and Zoning Board; and

WHEREAS, the City Commission deems it to be in the best interest of the citizens and residents of the City of Miramar to amend new Chapter 5 “Standards”, specifically Section 506.16 Tree Trust Fund; as shown herein; to enhance usability and incorporate best practices to the City's LDC.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA AS FOLLOWS:

Section 1: Recitals. The foregoing “**WHEREAS**” clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2: That proposed Chapter 5, Section 506.16 of the Land Development Code of the City of Miramar, Florida, is hereby amended to read as follows:

See Exhibit “A” attached hereto is hereby incorporated herein by this reference.

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Section 3: Each and every section and subsection of the City of Miramar Land Development Code not revised herein shall remain in full force and effect as previously adopted.

Section 4: Intent; Inclusion in the Code of Ordinances.

(a) That it is the intention of the City Commission of the City of Miramar that the provisions of this Ordinance shall become and be made a part of the Code of the City of Miramar, and that the word “ordinance” may be changed to “section,” article,” or such other appropriate word or phrase in order to accomplish such intention.

(b) That Sections 1. and 3. Through 8. shall not be codified but shall be an effective part of this enactment.

Section 5: Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby. In the event of a subsequent change in applicable law, so the provision which had been held invalid is no longer invalid, the provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding under this Ordinance.

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Section 6: Interpretation. It is the intention of the City Commission, and it is hereby ordained, that the provisions and revisions of this Ordinance shall become and be made a part of the Code of the City of Miramar; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word. That in interpreting this Ordinance, underlined words indicate additions to existing text, and ~~stricken through~~ words include deletions from existing text. Asterisks (* * *) indicate a deletion from the Ordinance of text, which exists in the Code of Ordinances. It is intended that the text in the Code of Ordinances denoted by the asterisks and do not set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance. Amendments made to the Ordinance on second reading are highlighted.

Section 7: Officials Authorized to Take Action. The appropriate City officials are authorized to do all things necessary and expedient to carry out the intent and purpose of this Ordinance.

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Section 8: **Effective Date.** This Ordinance shall become effective immediately upon adoption.

PASSED FIRST READING: _____

PASSED AND ADOPTED ON SECOND READING: _____

Mayor, Wayne M. Messam

Vice Mayor, Maxwell B. Chambers

ATTEST:

City Clerk, Denise A. Gibbs

I HEREBY CERTIFY that I have approved
this ORDINANCE as to form:

City Attorney
Austin Pamies Norris Weeks Powell, PLLC

Requested by Comm. Davis

Commissioner Winston F. Barnes

Vice Mayor Maxwell B. Chambers

Commissioner Yvette Colbourne

Commissioner Alexandra P. Davis

Mayor Wayne M. Messam

Voted

Ord. No. _____

Chapter 5 STANDARDS

Article 1 General Standards for Site Development

Section 501 – General Provisions

Section 502 – Specific Site Development Standards

Section 503 – Parking

Article 2 Structures

Section 504 – Architectural Design and Accessory Use Standards

Section 505 – Telecommunication Standards

Article 3 Landscaping

Section 506 – Landscaping Standards

Article 4 Signs

Section 507 - Signs

Article 1 General Standards for Site Development

Section 501. - General Provisions - Reserved.

Section 502. – Reserved.

Section 503. – Reserved.

Article 2 Structures

Section 504. – Reserved.

Section 505. – Reserved.

Article 3 Landscaping

Section 506. - Landscaping Standards.

506.1. Purpose. The purpose of this chapter is to provide regulations for: the installation, maintenance, protection and conservation of landscaping and landscaped open space and trees; to utilize landscaping, landscaped open space and trees as an effective means of conserving energy; to preserve open space; and to maintain and improve the aesthetic quality of the City of Miramar, thereby promoting the health and general welfare of the citizenry. In addition, it is the policy of the City Commission that every effort shall be made to preserve and maintain natural vegetation within the City of Miramar, as identified in the City's Comprehensive Plan and this LDC.

506.1.5. Applicability. The terms and provisions of this article shall apply to real property as follows:

- (1) All vacant and undeveloped property.

- (2) All property in all zoning classifications that is intended to be redeveloped.
- (3) The yard areas of all developed property.

506.16 Tree Trust Fund

506.16.1. Establishment. A tree trust line item (hereinafter referred to as the Miramar Tree Preservation Account or the "Trust") is hereby established as a depository for tree removal / relocation fees and penalty money. Such money shall be utilized solely for the purpose of funding tree replacement on public property within the City of Miramar.

506.16.2. Term of Existence. The Miramar Tree Preservation Account shall be self-perpetuating from year to year, unless specifically terminated by the city commission.

506.16.3. Trust Assets. All money received pursuant to the provisions of this section from public or private concerns shall be placed in trust for the use and benefit of the City of Miramar and its successors and assigns in interest.

506.16.4. Trust Administration. Trust funds shall be expended, utilized and disbursed only for the purpose designated by the budget of the City of Miramar to administer the tree preservation program pursuant to this code.

506.16.5. Disbursal of Assets. Trust funds shall be used to obtain trees, landscaping, sprinkler systems and any other items or materials necessary and proper for the preservation, maintenance, relocation or restoration of tree ecosystems, on any public land in the City of Miramar. This money may also be utilized to engage support elements, such as landscape architects and may also be used to cover the expense of relocation of trees in the City of Miramar.

506.16.6. Exceptions. Disbursement of Miramar Tree Preservation Account funds may be used for the preservation, maintenance, or restoration of tree ecosystems on owner-occupied, single-family residential properties and right-of-way within the City of Miramar that meet criteria for the City's tree trimming program. The purpose of the tree trimming program is to assist residents with maintaining potentially hazardous trees and roots encroaching on existing infrastructure, power lines, homes or pavement.

Article 4 Signs

Section 507. – Reserved.



ATTACHMENT 1

City of Miramar Community Development Department Development Review Report

I) Application Summary / Background

This is a proposed amendment to the Land Development Code (“LDC”) to modify a certain subsection of a new chapter in order to clarify a regulation pertaining to landscaping.

Applicant: City of Miramar

II) Standards for Reviewing Proposed Text Amendments:

The City's Land Development Code provides that consideration of proposed text amendments includes a review of the following standards (*Section 302.7*).

- (a) *The proposed amendment is legally required.*

Staff's Evaluation:

This amendment is legally required, as modifications to existing authoritative provisions, procedural obligations, permitted and conditional uses, bulk and height standards, and development standards within the Land Development Code and/or the City Code of Ordinances, are subject to adoption of an ordinance by the City Commission upon the conclusion of three duly noticed public hearings.

- (b) *The proposed amendment is consistent with the Goals, Objectives, and Policies of the Comprehensive Plan.*

Staff's Evaluation:

The proposed amendment is consistent with overall goals, policies, and objectives of the Comprehensive Plan.

Future Land Use Element:

Goal: Maintain a long-range future land use pattern which promotes the orderly and well-managed growth and development of the community, producing quality neighborhoods, enhancing the city's aesthetic appeal, conserving the natural environment and open space,

supporting a vibrant economic tax base, and minimizing risks to the public's health, safety and welfare.

Policy 2.1 - The City shall enforce the Land Development Code provisions for minimum adequate stormwater management including wetland preservation/restoration, open space, including historic and archaeological sites, safe and convenient on- site traffic flow, adequate parking, landscaping and signage and standards and clustering of residential units, by 2020.

Policy 5E.3 - Maintain and improve existing architectural, site, signage, lighting and landscaping design standards contained in the City's Land Development Code to guide the recommendations of City staff and the decisions of the Planning and Zoning Board, and City Commission.

In summary, in Staff's professional opinion, this amendment is consistent with the City of Miramar's Comprehensive Plan, because it facilitates horticulturally appropriate tree trimming and pruning procedures over removal and relocation, helping to preserve tree canopy and to protect life and property.

- (c) *The proposed amendment is consistent with the authority and purpose of this Code.*

Staff's Evaluation:

Pursuant to Land Development Code Section 102, the purpose of this LDC is to implement further the Comprehensive Plan ("the Plan") of the City by establishing regulations for all development and use of land and water in the City in addition to and in more detail than those in the Plan. Further, this LDC is adopted in order to foster and preserve public health, safety, comfort and welfare, and to aid in the harmonious, orderly, and progressive development of the City. It is the intent of this LDC that the land use patterns in the City of Miramar be effective, in terms of providing the proper balance of commercial and residential property; and equitable, in terms of consistency with established regulations and procedures, respect for the rights of property owners, and the consideration of the long-term interests of the citizens of the City.

The proposed amendment supports this section by clarifying a regulation that helps facilitate tree preservation while maintaining an aesthetically pleasing, healthy and safe built and natural environment for residents.

- (d) *The proposed amendment furthers the orderly development of the City.*

Staff's Evaluation:

Developing a more user-friendly, less restrictive and understandable land development code, while establishing parameters for uses that are not previously mentioned or included in the city's standards, is a basic tool for addressing an issue that is meaningful to residents, and directly supports the goal of orderly development of the City.

- (e) *The proposed amendment promotes sustainability and efficiency of the city and whether the proposed amendment promotes the public health, safety, welfare, and aesthetics; and*

Staff's Evaluation:

The LDC is a living document and should be updated from time to time to reflect adapting environments, societal changes and greater communication. Furthermore, the amendments open the door to uses and needs not contemplated before, with regulations as to a process, and specific standards and criteria, these amendments take the residents' welfare, safety concerns and environmental aesthetics into consideration.

- (f) *The proposed amendment improves the administration or execution of the development process.*

Staff's Evaluation: The amendment will accomplish this, as well as satisfying a certain need not previously addressed in the Code.

III) Planning & Zoning Board

Pursuant to Land Development Code Section 107.2(b), the Planning and Zoning Board will conduct a public hearing on these proposed amendments to the Land Development Code on May 12, 2020.

IV) Staff Recommendation

Staff finds that the proposed amendment to the Land Development Code, permitting Tree Trust Account funds to assist residents in implementing horticulturally sound tree trimming and pruning procedures, thereby preserving existing trees as much as possible, meets the criteria of the review standards of existing Land Development Code Section 302.7 for consideration of code text amendments and recommends approval by the City Commission.