

1 EXHIBIT 1

2 ORDINANCE NO. 2021-

3
4 AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE
5 CITY OF HALLANDALE BEACH, FLORIDA, AMENDING CHAPTER 29,
6 TREES, SECTION 29-1, DEFINITIONS, AMENDING SECTION 29-2,
7 APPLICABILITY; TERRITORY; ENFORCEMENT, AMENDING SECTION
8 29-3, TYPES OF PROPERTY, AMENDING SECTION 29-4, PERMIT
9 REQUIRED; PROCEDURES; FEE, AMENDING SECTION 29-5 – PERMIT
10 EXCEPTIONS, DELETING SECTION 29-6, ADMINISTRATIVE FEE
11 WAIVER, AMENDING SECTION 29-7, TREE PRESERVATION TRUST
12 FUND, AMENDING SECTION 29-8, APPEALS FROM DECISIONS OF
13 THE DESIGNATED PUBLIC AGENCY, AMENDING SECTION 29-9,
14 REMOVAL OF DEAD OR DISEASED TREES, AMENDING SECTION 29-
15 10, VIOLATION; PENALTY, AND ADDING SECTION 29-11, TABLES;
16 PROVIDING FOR CONFLICT; PROVIDING FOR CODIFICATION;
17 PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE
18 DATE.

19
20 **WHEREAS**, the City of Hallandale Beach current Tree Ordinance is in need
21 of an update to remove ambiguity, promote the City's overall tree canopy, create
22 a mitigation structure that is easy to follow, and remove steps from tree waivers by
23 adding a definitive table eliminating the need of bids and appraisal reports; and

24 **WHEREAS**, the proposed amendments include an in-depth definitions
25 section, deletions, addition of a mitigation table, mitigation options and a tree
26 waiver table, designation of monies for training funded by the tree trust fund,
27 updated manuals for reference, designation of experts for tree health and tree
28 threat evaluations, a requirement to call sunshine 811, a right tree right place
29 designation, removal of language that allows homestead properties not to be
30 required to re-plant removed trees, addition of a tree protection requirement during
31 development, and addition of all properties vacant or developed to the
32 requirements of this ordinance; and

33 **WHEREAS**, the existing Chapter 32 tree waiver provision is being transferred to
34 Chapter 29, and added to a definitive contribution table, requiring a minimum payment of

one thousand dollars (\$1,000) per tree not replaced, which amount increases as the removed tree diameter increases; and

WHEREAS, the revised tree waiver utilizes a calculation on a “per inch” of removed tree measured at breast height, eliminating the requirement of three (3) bid proposals and a tree evaluation; and

WHEREAS, the above-described fee payment will go into the tree trust fund to be utilized on City tree related activities such as park/City property/median forestation and tree giveaways, and costs to cover for plants, materials, labor and maintenance; and

WHEREAS, the new definitions and mitigation table will enable staff to better identify tree removal/abuse violations, and to determine options for mitigation to be offered also during plan review, including an option to plant or transplant trees on the same property or another within the City to alleviate the burden of replanting or contributing to the tree trust fund; and

WHEREAS, the current ordinance allows homestead properties to remove certain trees without the need of tree replacement, which reduces the overall tree canopy of the City, but the revised ordinance addressing this issue will help enhance the City’s appearance, and will contribute to green initiatives and sustainability by requiring more trees to be planted; and

WHEREAS, pursuant to Article V, Section 5.01, City of Hallandale Beach Charter, an ordinance adopted by the Commission is required to amend or repeal any ordinance previously adopted by the City Commission; and

WHEREAS, cost savings will be realized at time of planting trees in City property by using tree trust funds instead of the general fund, and the City’s overall appearance will be enhanced, strengthening the City’s green initiatives and sustainability efforts; and

WHEREAS, the City Commission deems that it is in the best interest of the residents of the City of Hallandale Beach to amend the City Tree Code as set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA:

SECTION 1. The foregoing “Whereas” clauses are hereby incorporated herein.

SECTION 2. Chapter 29, Trees, Section 29-1, Definitions, Section 29-2, Applicability; Territory; Enforcement, Section 29-3, Types of Property, Section 29-4, Permit Required; Procedures; Fee, Section 29-5 – Permit Exceptions, Section 29-6, Administrative Fee Waiver, Section 29-7, Tree Preservation Trust Fund, Section 29-8, Appeals From Decisions Of The Designated Public Agency, Section 29-9, Removal Of Dead Or Diseased Trees, Section 29-10, Violation; Penalty, Section 29-11, Tables, is hereby amended to read as follows:

Chapter 29 - TREES

Sec. 29-1. - Definitions.

For the purpose of enforcing and administering this chapter, definitions referenced in section 32-8 shall apply. In construing the provisions of this chapter, if no definition is provided and the context will permit, the latest editions of the following publications recognized as authoritative in the scientific and engineering fields shall apply:

(1) "Tree Protection Manual for Builders and Developers" by the Florida Department of Agriculture Division of Forestry;

~~(2) "Standards for Pruning Shade Trees" by the National Arborist Association;~~

~~(3) "Hortus III, Trees Native to Tropical Florida" by Tomlinson;~~

~~(4) "500 Plants of South Florida" by Julia Morton;~~

~~(5)~~ (2) "Dig Manual" by State of Florida;

~~(6)~~ (3) "Manual for Plant Appraisers" by Council of Tree and Landscape Appraisers;

and

~~(7)~~ (4) "Arboriculture Second Edition" by Richard W. Harris; and

~~(8)~~ (5) "ANSI A 300 Standards"

(6) South Florida Water Management District publication FWM – Greenwise Waterwise Publication

(7) FPL Right Tree Right Place Manual

Sunshine 811- Number to call before digging.

American National Standards Institute A-300 Tree Care Standards Manual ("ANSI A-300 Standards"): A tree manual which establishes performance standards for the care and maintenance of trees, shrubs, and other woody plants. These are the industry standards for Arboriculture or Urban Forestry used by the industry and many governing agencies as the minimum standards of practice for care and maintenance of trees, shrubs, and other woody plants. These are the generally accepted industry standards for tree care practices written by the Tree Care Industry Association (TCIA) to develop consensus performance standards for trees, shrubs, and other woody plants.

Applicant: A person who is the owner, authorized agent of the owner, or lessee of a property under a written lease authorized to apply for a tree permit.

Arboriculture: The cultivation, management, and study of woody plants, especially trees.

Bark: Protective outer covering of branches and stems outside of the cambium.

Buildable area: The portion of the site exclusive of the required yard areas as defined by the zoning ordinance of the city and its successors.

Cambium: A thin layer of cells under the bark of trees that produces growth of new tissue.

Canopy: The collective branches and foliage of a crown of a tree or group of tree crowns, usually represented as canopy diameter measured across the canopy from drip line to drip line at an average canopy width.

Canopy coverage: The aerial extent of ground within the drip line of the tree, usually represented as square feet of canopy area.

Certified arborist: A person who has successfully completed the testing program administered by the International Society of Arboriculture (ISA) to be an ISA Certified Arborist, with a current valid certification number. A person licensed as a Florida landscape architect shall be considered the same as an arborist.

Certified arborist report: A report issued by a certified arborist that, at a minimum, shall contain data for each existing tree in the applicable tree boundary survey as follows: species; DBH as defined herein; height; canopy spread; health condition; opinions regarding current condition; recommended tree activity, if any; and color photographs of trees which shall depict sufficient detail to support the opinion of the certified arborist.

Code compliance: The division under the Development Services Department responsible for the enforcement of the City Code, as further described in Chapter 9.

Code enforcement board: The code enforcement board of the City as appointed pursuant to Chapter 9. For purposes of this article, "code enforcement board" shall be synonymous with and have all powers of the special magistrate. The terms may be used interchangeably.

Construction: See "Development activity."

Controlled/Invasive/Exotic/Prohibited tree species: Tree species listed in the latest edition of the Florida Exotic Pest Plant Council in addition to: Weeping Fig Trees (Ficus benjamina) and Norfolk Island Pine (Araucaria Heterophylla).

Critical root zone: Also known as a "CRZ." The CRZ is as large as or larger than the minimum recommended root area for a tree as stated in the ANSI A-300 Standards for transplanting trees, usually measured and presented as root ball diameter.

Crown: A portion of an individual tree above the main stem, consisting of live branches and foliage.

Crown cover: The percentage of a given area that is covered by the vertical projection of the crowns of trees.

Diameter at breast height ("DBH"): The diameter at breast height of a tree trunk, measured at four and one-half feet above ground level (surface grade or soil grade).

In the case of multi-stemmed trees, the DBH is a calculation of the sum of the DBH of each trunk measured at four and one-half feet above ground level.

Dead tree: A tree which is not actively transporting water and nutrients from roots to leaves, and is exhibiting symptoms such as decay, brittleness, rot, non-seasonal defoliation, substantial loss of its branches, or other signs of substantial deterioration.

Department: The department of Development Services Planning and Zoning Division, which is responsible for review and issuance of tree permits.

Development activity: The carrying out of any building construction that requires issuance of a permit by the city, including without limitation building construction, additions (including but not limited to additions of carports, pools, decks, fences, driveways, and parking lots), modifications, demolition, or making any material alteration to the use or exterior appearance of any structure.

Drip line: The area defined by the outermost circumference of a tree's branches where water drips from and onto the ground.

Emergency work: Removing/pruning a tree after an incident in order to prevent further damage to property or person. A permit is to be applied for no later than 24 hours.

Exotic tree species: A plant species introduced from another country or geographic region outside its natural range, which may become naturalized or invasive, but is not native or indigenous to a region.

Fatally diseased tree: A tree that has been identified with a disease that is not curable by known industry standard pest control treatments or has visible damage from a disease and may include secondary stresses related to a disease. A fatally diseased tree may be considered a high-risk tree.

Florida grades and standards: The standards for determining the quality of nursery stock being grown, sold and/or used in landscape projects in Florida. These

are based on the Grades and Standards for Nursery Plants as published by the most current edition of the Florida Department of Agriculture and Consumer Services.

Girdling: Tree abuse in the form of restriction or destruction of the vascular system within a root, stem, or branch of a tree that causes inhibition of the flow of water and nutrients, usually accomplished by removal of bark and cambium around all or most of the circumference of a tree branch or stem.

Grade: The ground level of a subject property.

Hatracking: Also known as "Topping." A form of tree abuse resulting in the reduction of tree size using heading cuts that shorten limbs or branches back to a predetermined crown limit. Hatracking involves indiscriminate cutting back of branches between nodes.

High-risk trees: A tree that is in a location where risks to persons or property exist, including trees that have an identifiable part or parts with a high potential for failing and a high potential to strike a foreseeable target resulting in significant consequences within a short time-frame. The determination of whether a tree is a high-risk tree shall be made by the department upon assessing the supporting risks.

Homestead property: A property that receives a homestead exemption as determined and listed by the Broward County Property Appraiser's Office. This exemption must be current to be applicable.

Internode/internodal: The region of a tree's stem between two successive nodes; length of a branch or stem growing between the nodes.

Tree Trimmer License A or B: As defined in Article XI Sec.9 Broward County.

Landscape architect: see certified arborist.

Lion's tailing: A form of tree abuse in which the removal of an excessive number of inner, lateral branches from parent branches results in a tree having the majority of foliage in the outer portions of the canopy.

Main stem (or main trunk): The portion of a tree between ground level and the point of division into major branches.

Native tree species: An indigenous species that is normally found as part of an ecosystem. A species present in a defined area or region of the United States prior to European settlement.

Node: Slightly enlarged portion of a stem where leaves and buds arise.

Owner: Any person, entity, corporation, partnership, trust, holding company, limited liability company or any other legally recognized entity that is the legal, beneficial, or equitable owner of any interest whatsoever in the property. "Owner" shall include any purchaser, assignee, successor, or transferee of any interest whatsoever in the property regarding any provisions of this article.

Palm (or palm tree): Monocotyledonous plant of the Palmacea family. A type of tree that is an un-branched evergreen tree of tropical and warm regions, with a crown of very long feathered or fan-shaped leaves, and typically having old leaf scars forming a regular pattern on the trunk.

Public right-of-way: See "Right-of-way" as defined in Chapter 25 of the City Code, as amended.

Registered landscape architect: A person who holds a license to practice landscape architecture in Florida as authorized by Chapter 481, F.S..

Replacement trees: Also known as "mitigation trees." Trees that are proposed to be used as replacement for trees being removed from a property. Such trees shall not count towards minimum number of trees required by Chapter 32.

Right tree-Right place: Trees that are suitable for the desired location taking into consideration under/above ground utilities, visibility, and weather conditions.

Root: The part of a tree, usually underground, that anchors the tree to the ground and also absorbs and conducts water and nutrients to all parts of the tree.

Root pruning: The cutting of roots to limit their vertical or lateral growth, the process of pre-cutting roots behind the line of a planned excavation to prevent tearing and splintering of remaining roots, any removal of roots one inch in diameter or greater, and/or the removal of more than ten percent of a tree's root system. Root pruning of more than ten percent of a tree's root system requires a tree permit.

Shrub: A woody, perennial plant separated from a tree by its lower mature height (generally under 20 feet), and showing the lack of a well-defined main trunk, often multi-stemmed.

Site plan: A comprehensive plan drawn to scale indicating site elevations, roadways and location of all relevant site improvements including structures, parking, other paved areas, ingress and egress drives, landscaped open space and signage.

Specimen trees means any trees which has a DBH of 18 inches or greater for conifers and 24 inches or greater for hardwoods or palms and is well shaped and in good health. The following trees are not specimen trees:

- Nonnative fruit trees that are cultivated or grown for the specific purpose of producing edible fruit, including but not limited to mangos, avocados, or species of citrus.
- Species of the genus Ficus except F. aurea (strangler fig), F. laevigata (short leaf fig), F. rubiginosa (rusty fig or rusty leaf fig), and F. jacquinifolia.
- Paurotis palm (Acoelorrhaphe wrightii) and the Phoenix palm (Phoenix reclinata), which are less than 15 feet in height, and all other multitrunk palms.

Spiking: A form of tree abuse in which there is the hammering or affixing of metal or other material into a tree to harm the tree or lower its commercial value, or any damage to the trunk of a tree caused by use of climbing spikes.

Spread: The average diameter of the tree canopy or crown as measured across the canopy in at least two directions from drip line to drip line of farthest reaching branches.

Stem(s): The principal axis or wood structure of a plant from which buds, shoots, foliage, and branches develop.

Tree: A woody perennial plant, including palms, usually having only one dominant trunk and a well-defined stem or stems carrying a more or less definite crown, usually having a mature height greater than 16 feet. A tree regulated under this chapter must have a minimum size of 12 feet overall height with a DBH of two inches or larger. A palm regulated under this chapter must have a minimum height of 16 feet overall with a DBH of six inches or larger.

Tree abuse: Action that damages a tree and/or parts of a tree. Generally, any tree activity beyond or against those described in the ANSI A-300 Standards. Examples of tree abuse include but are not limited to hatracking, spiking, lions tailing, tree removal (without a permit), pruning more than 25 percent of a tree canopy in one annual growing season, root pruning that destabilizes a tree, girdling, damaging and/or removing sections of bark, and damaging and/or removing sections of cambium.

Tree activity: Work that will affect a tree on a property which includes tree removal, tree pruning more than 25 percent, and root pruning more than ten percent or trimming of a root more than one inch in diameter.

Tree boundary survey: A survey such as a topographic survey that establishes property lines and corners of a parcel of land and also locates natural features such as trees and streams as well as man-made features such as buildings, fences, improvements, land contours, easements, and utilities. Tree boundary surveys shall be prepared by a professional land surveyor.

Tree permit: A permit that is required for any tree activity as defined in this chapter.

Tree protection barriers: Barriers, fences, or barricades that are placed around existing trees to provide protection during construction on a subject property. Examples are contained in the tree protection specifications and tree protection details as described in the Landscape Manual and ANSI A-300 Standards.

Tree protection bond: A monetary bond that guarantees specific trees be protected and will not be harmed by the construction project and, if harmed, the party will reimburse for the loss.

Tree protection zone ("TPZ"): An area defined by a certified arborist surrounding the trunk of a tree to protect roots and soil within at least the CRZ area. This area is necessary to protect tree health and stability. The TPZ is an area within which certain activities are prohibited or restricted, especially during construction or development activity.

Tree pruning: Also known as "Tree trimming." The selective cutting of tree parts done to remove branches or parts of branches from a tree's crown.

Tree removal: The act of cutting down, destroying, moving, relocating, or effectively destroying through damaging, any tree situated on any real property or public property within the city.

Tree value: The appraised monetary value for a tree as calculated by an ISA certified arborist who is specially trained and experienced as a tree and landscape appraiser. Appraisals shall utilize the trunk formula method within the replacement cost approach of valuation as described in the most recent edition of the Guide for Plant Appraisal published by the International Society of Arboriculture. Tree value may be used to determine reasonable mitigation requirements for specimen trees removed without a permit and/or specimen trees effectively destroyed during construction, including trees permitted to be preserved or remain on site that are subsequently effectively destroyed, and may be used as an alternative to the replacement tree table for mitigation requirements for specimen trees being permitted for removal, as approved by the department.

308 Trunk: The main or central stem of a tree.

309 Vigor: The capacity of a tree to grow and resist stress; growing in a healthy
310 condition.

311 Sec. 29-2. - Applicability; territory; enforcement.

312 (a) No person shall abuse, cut down, destroy, remove, move or effectively destroy
313 through damaging any tree within the city except as provided in this chapter.

314 (b) The following is exempt from the prohibition of tree abuse as set forth in this section:

- 315 (1) ~~Topiary pruning when the trees are located on owner-occupied property~~
316 ~~developed for detached single-family or duplex usage, or the trees were not~~
317 ~~installed to meet minimum landscaping requirements and are identified on an~~
318 ~~approved landscape plan as appropriate for topiary pruning.~~

319 Tree abuse necessary to alleviate a dangerous condition posing an imminent
320 threat to the public or property as approved by the Department with
321 documentation provided.

322 Sec. 29-3. - Types of property.

323 The terms and provisions of this chapter apply to real property as follows:

324 (1) All vacant and undeveloped property.

325 (2) All property to be redeveloped.

326 (3) All property where there is to be any addition or alteration, ~~except developed~~
327 ~~single-family and two-family lots.~~

328 (4) The yard areas of all developed property, ~~except developed single-family lots.~~

329 (5) All rights-of-way, public or private.

330 Sec. 29-4. - Permit required; procedure; fee.

331 (a) *Required; compliance with chapter.* No person shall directly or indirectly cut down,
332 destroy, remove or move, or effectively destroy through damaging, or authorize the
333 cutting down, destroying, removing or moving, or damaging, or abuse any trees

situated on property described in this chapter without a permit as provided in this section being obtained, unless expressly permitted under Section 163.045, F.S. No City official shall issue a permit provided for in this section in violation of the requirements of this chapter.

(b) *Application and fee.* Permits for removal, relocation or replacement of trees covered in this chapter shall be obtained by making application, in a form prescribed by the city, for permit to the department of development services. The application shall be accompanied by a permit fee set by resolution (although governmental agencies shall be exempted from permit fees) and a written statement indicating the reasons for removal, relocation or replacement of trees and ~~four~~ two copies of a legible site plan (hand drawn site plan accepted for homestead properties only and only if work is not related to any other construction) ~~drawn to the largest practicable scale or in a format required by the Department~~ indicating the following:

(1) Location of all existing or proposed structures, improvements and site uses, properly dimensioned and referenced to property lines, setback and yard requirements and spatial relationships.

(2) Proposed changes, if any, in site elevations, grades and major contours.

(3) Location of existing or proposed utility services.

(4) The location of all trees on the site designating the trees to be retained, removed, relocated or replaced. Groups of trees in close proximity may be designated as clumps of trees with the estimated number noted. Only those trees to be removed, relocated or replaced must be named (common or botanical name) on the site plan. Except for single-family lots, a- certified tree survey is required when the property contains five or more trees.

(5) Tree information required in this section shall be summarized in legend form on the plan ~~and shall include the reason for the proposed removal, relocation or replacement~~ including tree species, disposition and condition.

(6) Applications involving developed properties may be based on drawings showing only that portion of the site directly involved and adjacent structures and incidental landscaping or natural growth.

(7) Applications involving new arterial roads shall not be required to include a detailed site plan.

(8) Starting date and duration of proposed activity.

(9) A statement as to the reason for the proposed removal, relocation and replacement.

(10) Unless expressly permitted under Section 163.045, F.S., replacement trees for homestead properties may comply with the following alternatives:

The removal of a non-specimen/non-native tree, a controlled tree species or a palm species shall be replaced with a native species at a one-to-one ratio upon written confirmation from the department. Replacement shall be of minimum replacement size at two inches DBH and 10 feet overall height.

Homestead properties that remove trees without a proper tree permit must comply with the doubled replacement tree quantities and requirements set forth in Section 29-11 Tables.

New or relocated Shade trees shall be separated by a minimum of 6 feet between each other and any structure.

Shade trees installed within 6 feet of any public infrastructure shall have a root barrier approved by the city.

(c) *Application review.* Upon receipt of a proper application, the Department of Development Services shall review the application, which may include a field check of the site and referral of the application for recommendation to other appropriate administrative departments. The Department of Development Services shall take all steps to ensure a decision on the application within 30 days; however, if, unless more time is required to process the application. Expiration of the 30 day review time does not entitle the applicant to remove the trees ~~which~~that are subject to the

application. After a permit has been approved, the Department shall post a notice on the property in a conspicuous place to advise others of the decision. This posting cannot be removed prior to 15 days after the posting. This notice shall include information on how to appeal the decision.

(d) *Removal permit issuance.* Except for what regards residential property addressed in subsection (3) immediately below, nNo permit shall be issued for tree removal unless one of the following **two** conditions exists:

(1) The tree is located in the buildable area, yard area or street right-of-way where a structure or improvement is to be placed and for which a permit application has been filed, and it unreasonably restricts the permitted use of the property, and the applicant has made every reasonable effort to incorporate existing trees and to minimize the number of trees removed.

(2) The tree is diseased, injured, in danger of falling, too close to existing or proposed structures so as to endanger such structures, interferes with utility services, creates unsafe vision clearance, is growing in too close proximity to other trees to permit normal growth and development of affected trees consistent with good forestry practices or where a tree is causing damage to the public right-of-way. An arborist or a Florida architect report shall be submitted for review.

(3) If the tree is located upon residential property, then pursuant to Section 163.045, F.S., no notice, application, approval, permit, fee or mitigation is required if the property owner obtains documentation from an arborist certified by the International Society of Aboriculture or a Florida licensed landscape architect that the tree presents a danger to persons or property. In such a case, notwithstanding anything to the contrary herein, there is no requirement for a property owner to replant a tree that was pruned, trimmed, or removed pursuant to this Section. This Section does not apply to the exercise of specifically delegated authority for mangrove protection pursuant to ss. 403.9321-403.9333.

~~(3) The tree unreasonably restricts bona fide agricultural use of the property and is located in a zoning district which permits agricultural use.~~

(4) ~~The trees proposed to be removed are the minimum number necessary for use of the property.~~

(e) *Relocation or replacement permit issuance.* As a condition of the granting of a permit, the applicant must either relocate the trees being removed or replace the trees being removed with suitable replacement trees as per Section 29-11 Tables. If it is determined that an applicant cannot relocate or replace removed trees, the applicant shall pay the appropriate fee into the city's tree preservation trust fund, plant in another property within the city (If not owned by applicant, an agreement between applicant and owner must be submitted). A relocation/planting plan shall be submitted for review; this shall include feeding/watering schedules good for one year; and transplanting plan.

(f) *Tree relocation bond requirement.*

(1) Unless otherwise exempted by this chapter, any person conducting tree relocation activities involving specimen trees must post a bond to insure the survival of the trees. The bond must meet the approval of the Ceity Attorney and may be in the form of a letter of credit drawn upon banks or savings and loan institutions legally doing business in the state or other acceptable means as approved by the Ceity Attorney. This bond shall be in addition to any other bond required by any other government entity.

(2) The amount of the required bond shall be computed based upon the most current version of the "Guide for Plant Appraisal," published by the International Society of Arboriculture.

(3) Government entities are exempt from bond requirements.

(g) *Release and drawing on bonds.* Tree relocation bonds will be released upon successful tree relocation as set forth in subsection (i) of this section. Bonds involving specimen trees shall be released upon completion of construction activities if it is determined by the city that the trees are not effectively destroyed.

(1) Bonds may be released by the city when a tree removal permit is transferred. The city may require the subsequent permittee to replace the bond prior to agreeing to release the original bond.

(2) If a tree is determined by the city to be effectively destroyed within one year from the date of relocation, the bond shall be drawn upon and funds will be deposited into the city tree preservation trust fund.

(h) *Methodology for payment into tree preservation trust fund.* If it is determined that an applicant cannot relocate or replace removed trees, the applicant shall pay a fee into the city's tree preservation trust fund. ~~The applicant will submit three cost estimates which reflects the dollar value of the trees being removed. Cost estimates must be based upon the species, height, diameter and maturity of the trees; and estimates must be prepared by a licensed nursery. The city will determine the accuracy of the submitted estimates. The applicant is required to make payment for the accepted cost estimate plus the cost for installation. Installation costs are equal to twice the cost of the trees.~~

(i) *Relocation plan.* If any tree is to be relocated on or off the site, a relocation plan must be submitted and approved by the city prior to granting a tree removal permit. In determining the required relocation or replacement of trees, the designated public agency shall consider the needs of the intended use of the property, together with a realistic evaluation of the following:

(1) ~~Tree canopy coverage shall be determined so there is no loss of coverage upon maturity of the replacement trees.~~

(2) ~~Number of trees to be removed on the entire property. The replacement canopy coverage shall at least equal the area of canopy coverage which was removed. Relocation of trees on the site will be counted towards equivalent replacement canopy. Relocation of trees off the site shall be counted as half credit towards equivalent replacement.~~

~~(3)~~ Area to be covered with structures, parking, and driveways.

~~(5)~~ Character of the site and its environs.

~~(6) Ecology of the site.~~

~~(7) Characteristics and amount of shrubs, grass and trees proposed for planting on the site by the applicant.~~

~~(8) Native trees shall be required to replace native tree canopy coverage that is removed.~~

~~(9) For tree replacement requirements of one to five trees, a minimum of one species shall be utilized as a replacement tree. For six to ten replacement trees required, a minimum of two species shall be utilized. For 11 to 20 replacement trees required, a minimum of three species shall be used. For 21 to 50 replacement trees required, a minimum of four species shall be utilized. For 51 or more replacement trees required, a minimum of five species shall be utilized.~~

~~(10) For trees removed pursuant to section 29-4(d)(1), an additional 50 percent tree replacement shall be required.~~

~~(11) Replacement trees shall be Florida No. 1 quality or better. The diameter of the replacement tree shall be equal to or greater than the diameter of the trees being removed. More than one tree may be utilized for replacement if the aggregate sum of the diameters of the replacement trees is equal to or greater than the diameter of the trees being removed. Each replacement tree shall have the largest diameter commercially available in Dade, Broward and Palm Beach counties for the tree species selected, provided that no replacement tree shall have a diameter of less than three inches. Diameter measurements shall be made at four and one-half feet above the ground.~~

~~(12) The method to be followed in relocating trees shall be in compliance with the guidelines for tree relocation available in the growth management department.~~

~~(42)~~ For tree protection from construction work during any construction, land development or lot clearing, the contractor and the owner of the property subject to this section shall adhere to the requirements as follows:

- a. Place and maintain protective barriers around the dripline of all trees to be retained on the site to prevent their destruction or damage. The protective

barriers shall be conspicuous enough and high enough to be seen easily by operators of trucks and other equipment. Protective barriers shall be constructed of sturdy material (not flagging or ribbons).

- b. Not store or use materials or equipment within the dripline of any tree to be retained on the site unless the activity is being done to protect trees.
- c. Not discharge or contaminate the soil within the dripline of any tree to be retained on the site with any construction materials such as paint, oil, solvents, petroleum products, asphalt, concrete, mortar, or other materials that may cause adverse impacts.
- d. Clearing of vegetation within the dripline of trees designated for preservation shall only be by hand or light rubber-wheeled equipment that will not damage tree roots.
- e. Utilize retaining walls and drywells where needed to protect trees to be preserved from severe grade changes.
- f. Pruning of trees to be preserved shall be in accordance with the standards for pruning established by ~~the National Arborist Association or standards for palm pruning as listed in "Arboriculture Second Edition" by Richard W. Harris, as amended.~~ ANSI A 300 Standards.
- g. Make no attachments, other than those of a protective and nondamaging nature, to any tree to be retained on the site.
- h. Not change the natural grade above the root system within the dripline of any tree to be retained on the site unless it can be demonstrated to the city that it will not damage any tree.
- i. Avoid any encroachments, excavations or severe grade changes within the dripline of preserved trees unless it can be demonstrated to the city that it will not impact any tree.
- j. Any trees designated to be preserved which are damaged during construction shall promptly be repaired.

(143) Any person who abuses a tree in violation of this article shall:

a. Undertake pruning and other remedial action as determined by the city, not limited to the removal of severely abused trees to protect public safety and property, and corrective pruning to improve the health and form of affected trees; and ~~No tree removal permit is required for the removal of severely abused trees that are removed pursuant to City direction.~~

b. Plant replacement trees pursuant to the ~~provisions of section 32-385 if the natural habit of growth of the abused tree is destroyed.~~ Section 29-11 Tables; and

c. Pay fine as described in Section 9-45.

(j) ~~Tree replacement for specimen trees. A tree appraisal will be performed by the city to determine the dollar value of any specimen tree approved by the city for removal pursuant to subsection (d) of this section. This appraisal shall be pursuant to the "Guide for Plant Appraisal, Eighth Edition," as amended by the Council of Tree and Landscape Appraisers.~~

(k) *Tree replacement requirements for nonspecimen and specimen trees.*

(1) Other than as applicable in Section 29-4(d)(3) above, if the city an arborist or Florida landscape architect determines that a removed tree cannot be successfully relocated, the tree shall be replaced to compensate for lost canopy coverage.

(2) The following criteria shall be used by the city to determine the tree replacement requirements:

a. The tree canopy coverage of a site shall be determined using any combination of the following methods:

1. Review of aerial photography.

2. On-site inspection.

3. Review of tree survey.

b. A tree that is successfully relocated pursuant to subsection (i) of this section need not be replaced.

c. Native trees must be planted to replace native tree canopy coverage removed per Section 29-11 Tables.

d. The number required of replacement trees shall be based upon the size of area of impact and the species of replacement trees selected by the applicant. The canopy of the replacement trees at maturity shall at least equal the canopy removed.

(l) *Tree replacement requirements for abused trees.*

(1) Any person who abuses a tree in violation of this chapter shall undertake pruning and other remedial actions as determined by ~~the city~~ an arborist, not limited to the removal of severely abused trees, to protect public safety and property, and corrective pruning to improve the health and form of affected trees. Remedial pruning shall be performed by a Broward County A or B license holder. ~~No tree removal permit is required for the removal of severely abused trees that are removed pursuant to city direction.~~

~~(2) Planting of replacement trees is required if the natural habit of growth of the abused tree is destroyed.~~

(2) Other than as applicable in Section 29-4(d)(3) above, if the city an arborist or Florida landscape architect determines that an abused tree' natural habitat of growth has been destroyed or a removed tree cannot be successfully relocated, such tree shall be replaced to compensate for lost canopy coverage. The tree canopy coverage of a site shall be determined using any combination of the following methods: review of aerial photography, on-site inspection, or review of tree survey. Any tree that is successfully relocated need not be replaced. Native trees must be replanted to replace native tree canopy coverage removed. ~~The number of replacement trees required shall be based on the size of area of impact and the species of replacement trees selected by the applicant. The canopy of the replacement trees at maturity shall at least equal the canopy removed.~~

(4) ~~If the natural habit of growth of the tree is destroyed, the violator shall install a replacement tree. Such abused tree shall be removed if it threatens public safety or property.~~

(m) *Compliance.* Whenever any work is being done by a person not in compliance with this article, an appropriate enforcement officer may order that work be stopped and such persons performing such work shall immediately cease such work. The work may not resume until such time as the person is in compliance with this article and the city may request Broward County to revoke the BTR of the individual or company performing the work.

Sec. 29-5. - Permit exceptions.

(a) Other than as applicable in Section 29-4(d)(3) above, if any tree shall endanger health or safety and require immediate removal without delay, written authorization may be given by the city manager or designee and the tree removed without obtaining a written permit provided the owner of the property can document with photos that such conditions exist. A permit must be filed within 24 hours of work commencement.

(b) All state-approved and governmental plant or tree nurseries and botanical gardens shall be exempt from the terms and provisions of this chapter only in relation to those trees which are so planted and growing for the sale or intended sale to the general public in the ordinary course of business or for some public purpose.

(c) All groves of trees in active commercial operation shall be exempt from the terms and provisions of this chapter for bona fide agricultural purposes only.

(d) The types of trees included in the city's list of prohibited trees and noncredit species shall be exempt from the terms and provisions of this chapter other than sections 29-4(d) and 29-9.

(e) County, municipal or franchised utilities, water control districts, and their authorized agents, are authorized to prune trees in a manner that may be defined as tree abuse provided such pruning is necessary to prevent service interruptions, or to restore interrupted service. ~~These agencies are permitted to conduct such pruning upon~~

~~presentation to the city of the permit obtained from the county permitting such pruning.~~

~~(f) Topiary pruning shall only be allowed for trees located on single-family lots or for those trees that were not installed to meet minimum landscaping requirements and are identified on an approved landscape plan as appropriate for topiary pruning, and are located outside of rights-of-way or roadway easements.~~

~~(g) Any tree on residential property developed for detached single-family usage is an exception, except for the following:~~

~~(1) Previously preserved, relocated or replaced trees that were preserved, relocated or replaced as a condition of granting a tree removal permit; and~~

~~(2) Historical trees, specimen trees, or tree abuse.~~

(f) Under emergency conditions declared by the City Mayor such as hurricanes, wars or natural disasters, county and franchised utilities, water management districts, improvement districts, airports and the state department of transportation may remove a tree in order to prevent an imminent interruption of service or to restore interrupted service.

(g) During emergency conditions caused by a hurricane or other disaster, the provisions of this section may be suspended by direction of the city manager.

(h) The removal or relocation of planted landscape trees prior to the issuance of a certificate of occupancy is an exception.

(i) Removal of trees, except historical or specimen trees by franchised utilities, water management districts and the state department of transportation after the city and the record of owner of the property on which the trees proposed to be removed are located, receive notification, delivered 15 calendar days prior to tree removal is an exception. The record owners may appeal the tree removal by submitting a letter of appeal to the city prior to expiration of the 15-day period. The appeals process shall be pursuant to section 29-8. Tree removal may proceed after the expiration of the 15-day period, providing no letters of appeal have been received by the city, if:

(1) The utility or agency can prove prior to tree removal that the:

- a. Tree will cause a continual disruption of service (specimen palm trees may be removed under this exemption);
- b. Easement or property was in actual use prior to the effective date of this section; and
- c. Threat of service interruption cannot be remedied by tree pruning in accordance with National Arborist Association Standards of palm pruning in accordance with the standards listed in "Arboriculture Second Edition" by Richard W. Harris, as amended; or

(2) The removal is for the purpose of providing new/additional on-site service to existing development. Under this provision, the notification shall be in writing prior to the tree removal. The franchised utility shall not be required to obtain a license but shall comply with all the standards, requirements and conditions of this section.

Sec. 29-6 - Reserved

~~Sec. 29-6. - Administrative tree waiver.~~

~~When a rare, historical or valuable tree is located in the buildable area of a lot, in a manner that unreasonably restricts the development of the parcel, the City may waive certain landscaping or parking standards that may be required by article IV, divisions 8 and 11 of chapter 32. In order to waive such requirements, it must be found that the location of the tree unreasonably restricts the development of the parcel as it may be developed if the trees were not on the property. The city shall use the following criteria in making a determination:~~

- ~~(1) The applicant must submit an architectural site plan of the proposed development which shows that the proposal would meet all applicable development standards of chapter 32 for the proposed use on the parcel.~~
- ~~(2) The site plan must include the location, height, species and diameter of the existing trees which restricts the development.~~
- ~~(3) The proposed waiver meets the criteria for granting a variance as provided in section 32-965.~~

~~(4) — An administrative fee as set forth by the city shall be due at the time a request for a tree waiver is submitted.~~

Sec. 29-7. - Tree preservation trust fund.

(a) *Establishment of trust.* The Tree Preservation Trust Fund is established for the purpose of accepting and disbursing the replacement fees paid to the city as part of tree removal permits and any other moneys deposited with the city for tree and landscape purposes. This fund shall solely be used for the planting of trees in the city and any other ancillary costs associated with the planting of trees and personnel training Ancillary costs shall not exceed 20 percent of the cost of the particular tree planting project.

(b) *Term of existence.* The trust shall be self-perpetuating from year-to-year unless specifically terminated by the city commission.

(c) *Trust assets.* All moneys received under this sSection from public or private concerns shall be placed in the trust fund for and inure to the use and benefit of the city and its successors and assigns in interest.

(d) *Trust administration.*

(1) Trust funds shall be expended, utilized and disbursed only for the purposes designated by the city commission.

(2) All moneys deposited under this section shall be deposited in the trust, which shall be a separate account established and maintained apart from the other accounts of the city.

(3) Moneys obtained under this section may be accepted on behalf of the city by the department of finance, which shall cause the moneys to be credited to the trust.

(e) *Disbursal or conversion of assets.*

(1) Trust expenditures for planting of trees to be made by the city will be made in accordance with the guidelines of the city pertaining to contracting and purchasing, and any detailed procedures will be reflected in the internal

procedures of the city. The disbursement of these moneys shall be under the control of the city commission and, when required, shall be coordinated with city departments.

- (2) Trust funds will 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, for any public land in the city. These moneys may also be used to cover the expense of relocation of trees in the city and the expense of periodically distributing saplings to the public.

- (3) Ten percent of the Trust Funds received may be used for personnel training and maintain certifications.

Sec. 29-8. - Appeals from decisions of the designated public agency.

- (a) Any person aggrieved by any decision of the department of development services in the enforcement of any terms or provisions of this chapter may appeal to the city commission by filing, within 15 days after the date of the decision complained of, a written notice of appeal with the city manager, which shall set forth concisely the decision appealed from and the reasons or grounds for the appeal. Each appeal shall be accompanied by a fee as set by resolution to cover the cost of the appeal proceedings. The city commission shall hear and consider all facts material to the appeal and render a decision promptly.

- (b) The city commission may affirm, reverse or modify the decision appealed from, but the city commission shall not take any action which conflicts with or nullifies any of the provisions of this chapter. Reasonable notice of all hearings shall be provided by the city clerk to all affected parties. The decision of the city commission shall be final, and no petition for rehearing or reconsideration shall be considered.

Sec. 29-9. - Removal of dead or diseased trees.

- (a) *When required.* All owners of real property in the city shall be responsible for the removal of dead or terminally diseased trees from their property. Except as otherwise provided in this chapter, such removal shall require a permit.

(b) ~~Compliance with other regulations.~~ Disposal of all trees cut down, destroyed or removed within the city shall comply with chapter 32. If any tree cut down, destroyed or removed within the city was required by article IV, division 8 of chapter 32, it shall be replaced and maintained in accordance with that article.

Sec. 29-10. - Violation; penalty.

(a) Upon conviction, a violator of any provision of this chapter shall be punished in accordance with the penalties provided by sSection 9-45. Each tree cut down, destroyed, removed or moved in violation of this chapter shall be a separate violation.

(b) ~~If a person abuses a tree in violation of this section, the violator shall be responsible to undertake pruning and other remedial actions that the city determines are reasonably necessary to protect public safety and property, and to help the tree survive the tree abuse damage if the tree is not a nuisance species.~~

(c) ~~If the natural habit of growth of the tree is destroyed, the violator shall install a replacement tree. Such abused tree shall be removed if it threatens public safety or property.~~

(d) ~~Remedial actions and replacement required under this section shall be completed within 60 days of notice from the city that such actions are required. The city may require the violator to immediately undertake remedial actions if the tree is an immediate threat to the public or property.~~

Sec. 29-11 – Tables.Tree replacement table. The tree replacement table below, shall be used to determine the total number and size of trees that shall be planted as replacement trees for all trees permitted to be removed. The replacement trees are based on the diameter in inches (DBH) of the trees to be removed. To determine the required replacement trees, calculate the total sum in inches of the diameters of all trees to be removed. This sum will result in one single number in inches that represents the combined total of the diameters of all trees to be removed. Diameter measurement shall be rounded up to the nearest inch.

Total diameter of tree(s) to be removed (sum of inches at DBH)	Total number of replacement trees required (where each Replacement Tree is a minimum of 2" DBH x 6' spread in Canopy x 10' in height)	OR	Total number of replacement trees required (where each Replacement Tree is a minimum of 4" DBH x 8' spread in Canopy x 15' in height)	OR	Contribution to Tree Trust Fund
2"—3"	1	or	N/A	or	\$1,000.00
4"—6"	2	or	1	or	\$2,000.00
7"—12"	4	or	2	or	\$4,000.00
13"—18"	6	or	3	or	\$6,000.00
19"—24"	8	or	4	or	\$8,000.00
25"—30"	10	or	5	or	\$10,000.00
31"—36"	12	or	6	or	\$12,000.00
37"—42"	14	or	7	or	\$14,000.00
43"—48"	16	or	8	or	\$16,000.00
49"—60"	20	or	10	or	\$20,000.00

756

757 If the sum of the diameter of trees to be removed exceeds a total of 60 inches, the
758 additional inches shall be added cumulatively from the top of the chart, down to the
759 bottom of the chart, to calculate the number of trees required as replacement trees.

Up to 30 percent of the two-inch DBH replacement tree requirement may be met by native species with a minimum height of ten feet and a minimum DBH of one and one-half inches at time of planting.

The removal of a palm shall be replaced with two palms at 15 feet overall height with a six-inch DBH or one tree at 10 feet overall height with a two-inch DBH. Native palms of a 15 foot minimum overall height and minimum DBH of three inches at time of planting shall count as a required two-inch DBH replacement tree on the basis of two palms per required tree. No more than 25 percent of the required replacement trees shall be palms.

Tree species. Tree(s) installed as replacement trees shall be of a native or non-invasive species and shall be planted at grade or ground level according to ANSI A300 best management practices manual, incorporated herein by reference. When more than ten trees are installed as replacement trees, a diversity of species shall be required as per the tree species diversity chart, below.

Required Number of Trees	Required Minimum Number of Species
11—20	3
21—50	4
51 or greater	6

- Table showing Tree replacement required mitigated amount when tree removed without a permit

Diameter (DBH of each tree removed without a permit	Total number of Replacement Trees required (where each Replacement Tree is a minimum of 2" DBH x 6' spread in Canopy x 12' in height)	OR	Total number of Replacement Trees required (where each Replacement Tree is a minimum of 4" DBH x 8' spread in Canopy x 16' in height)	OR	Contribution into Tree Trust Fund
•					
2"—3"	2	or	N/A	or	\$2,000.00
4"—6"	4	or	2	or	\$4,000.00
7"—12"	8	or	4	or	\$8,000.00
13"—18"	12	or	6	or	\$12,000.00
19"—24"	16	or	8	or	\$16,000.00
25"—30"	20	or	10	or	\$20,000.00
31"—36"	24	or	12	or	\$24,000.00
37"—42"	28	or	14	or	\$28,000.00
43"—48"	<u>32</u>	or	16	or	\$32,000.00
49"—60"	40	or	20	or	\$40,000.00

780

781

782

SECTION 3. Conflict. All ordinances or portions of the Code of Ordinances of the

783

City of Hallandale Beach in conflict with the provisions of this ordinance shall be repealed

784

to the extent of such conflict.

785

SECTION 4. Codification. It is the intention of the Mayor and City Commission that the provisions of this ordinance be incorporated into the Code of Ordinances; to effect such intention the words “ordinance” or “section” may be changed to other appropriate words.

SECTION 5. Severability. Should any provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be invalid.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED ON 1ST reading on _____, 2021.

PASSED AND ADOPTED ON 2ND reading on _____, 2021.

JOY F. COOPER
MAYOR

SPONSORED BY: CITY ADMINISTRATION

ATTEST:

JENORGEN M. GUILLEN, CMC
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY
AND FORM

JENNIFER MERINO
CITY ATTORNEY