

ORDINANCE NO. 15-1501

AN ORDINANCE OF THE CITY OF HAINES CITY, FLORIDA, ELIMINATING CHAPTER 25.5 “TREES” OF THE CODE OF ORDINANCES AND ABOLISHING THE TREE BOARD INCLUDING ALL REFERENCES; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CODIFICATION AND SCRIVENERS ERRORS; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 166.021 Powers, as provided in s. 2(b), Art. VIII of the State Constitution, state municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the City of Haines City, City Commission desires to eliminate Chapter 25.5 “Trees” abolishing the Tree Board and any references throughout the Code of Ordinance text; and

WHEREAS, Chapter 25.5 “Trees” is hereby removed in its entirety;

WHEREAS, the Tree Board is hereby abolished; and

WHEREAS, the Leisure Services Advisory Board will address any concerns and responsibilities related to trees; and

WHEREAS, it is in the best interest of the residents and citizens of the City of Haines City, Florida for the City Commission to eliminate Chapter 25.5 of the Code of Ordinances related to trees.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF
THE CITY OF HAINES CITY, FLORIDA:**

Section 1. Exhibit “A”. Sections 25.5-1 through 25.5-52 of the Code of Ordinances of the City of Haines City are removed as set forth in “Exhibit A” attached hereto and made a part hereof. (language stricken is shown as ~~strikethrough~~ text; language added is shown as underlined text):

Section 2. Incorporation of Recitals. The above recitals are true and correct and are adopted herein by reference.

Section 3. Providing for Codification and Scriveners Errors. Codification and Scrivener errors. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Haines City; and that sections of this Ordinance may be re-numbered or re-lettered or reclassified as a section, article, or chapter. The correction of typographical and/or scriveners errors which do not affect the intent may be authorized by the City Manager or his/her designee, without the need of a public hearing, by filing corrected or re-codified copy of the same with the City Clerk.

Section 4. Severability. The provisions of this Ordinance are severable; and, if any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional, invalid or ineffective, this holding shall not affect the validity of the remaining portions of this Ordinance; it being expressly declared to be the City Commission's intent that it would have passed the valid portions of this Ordinance without inclusion of any invalid portion or portions.

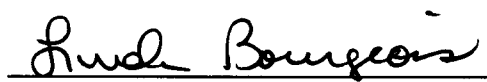
Section 5. Repeal of Ordinance in Conflict. All other ordinances of the City of Haines City, Florida, or portions thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 6. Effective Date. This Ordinance shall take effect immediately upon adoption by the City of Haines City, City Commission.

INTRODUCED AND PASSED on first reading in regular session of the City Commission of the City of Haines City, this 21st day of May, 2015.

ATTEST:

APPROVED:



Linda L. Bourgeois, MMC, City Clerk

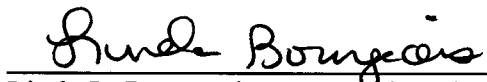


Kenneth Kipp, Mayor

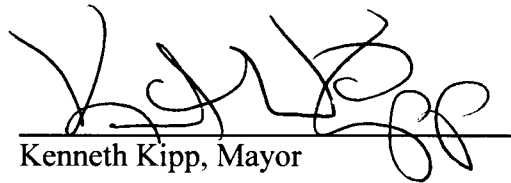
PASSED on second and final reading by the City Commission of the City of Haines City, Florida, at regular session this 4th day of June, 2015.

ATTEST:

APPROVED:



Linda L. Bourgeois, MMC, City Clerk



Kenneth Kipp, Mayor

APPROVED AS TO FORM AND CORRECTNESS:

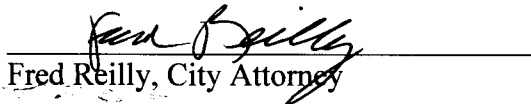
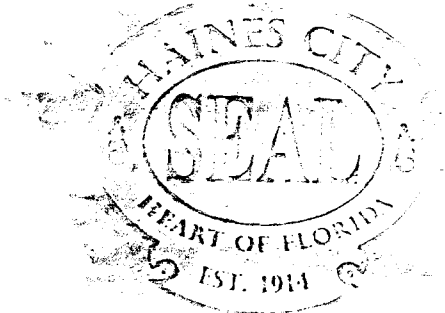

Fred Reilly, City Attorney

Exhibit “A”

Chapter 25.5—TREES

ARTICLE I.—IN GENERAL

Sec. 25.5 1.—Definitions.

~~The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Park trees:* Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.~~

~~*Street trees:* Trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the city.~~

Sec. 25.5 2.—Interference with city tree board.

~~It shall be unlawful for any person to prevent, delay or interfere with the city tree board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or trees on private grounds, as authorized in this chapter.~~

Sec. 25.5 3.—Arborist's license and bond.

~~It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the city without first applying for and procuring a license as provided in Chapter 12 of the City Code; provided, however, that no license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of fifty thousand dollars (\$50,000.00) for bodily injury, and one hundred thousand dollars (\$100,000.00) property damage indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described.~~

Sec. 25.5 4.—Review by city commission.

~~The city commission shall have the right to review the conduct, acts and decisions of the city tree board. Any person may appeal from any ruling or order of the city tree board to the city commission who shall hear the matter and make final decision.~~

~~Sec. 25.5 5.—Penalty.~~

~~Any person violating any provision of this chapter shall be, upon conviction or a plea of guilty, subject to a penalty as provided in section 1-8 of this Code.~~

~~Secs. 25.5-6—25.5-20. - Reserved.~~

~~ARTICLE II.—CITY TREE BOARD~~

~~Sec. 25.5 21.—Creation and establishment.~~

~~There is hereby created and established a city tree board for the City of Haines City, Florida, which shall consist of five (5) members and one (1) alternate resident member. The five (5) regular members shall be: One (1) city commissioner to be appointed by the city commission; one (1) city staff member to be designated by the city manager; and three (3) city residents to be appointed by the city commission to serve three-year staggered terms. The city commission shall also appoint one (1) alternate resident member to serve a three-year term who shall serve as a regular member in the absence of any of the regular members at any regular or special meeting of the board at which any regular member is not present.~~

~~Sec. 25.5 22.—Terms of office.~~

~~The term of the three (3) regular members and the one (1) alternate member shall be three (3) years each, except, that in order to stagger the first terms one (1) of the regular members appointed to the board shall be appointed for one (1) year, one (1) of the regular members shall be appointed for two (2) years and the term of the one (1) remaining regular and alternate member shall be for three (3) years. The city commissioner shall serve at the pleasure of the city commission and the city staff member shall serve at the pleasure of the city manager. In the event that a vacancy shall occur during the term of any member his successor shall be appointed for the unexpired portion of that term.~~

~~Sec. 25.5 23.—Compensation.~~

~~Members of the board shall serve without compensation, but may receive reimbursement for expenses as provided by law.~~

~~Sec. 25.5 24.—Duties and responsibilities.~~

~~(a) It shall be the responsibility of the board to study, investigate, council and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs~~

~~in parks, along streets and in other public areas. Such plan will be presented annually to the city commission and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the city.~~

~~(b) The board, when requested by the city commission, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.~~

~~(Ord. No. 733, § 5, 1-5-89)~~

~~Sec. 25.5-25. Operation.~~

~~The board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.~~

~~Sec. 25.5-26 25.5-40. Reserved.~~

~~ARTICLE III. PLANTING AND CARE~~

~~Sec. 25.5-41. "Street tree" species to be planted; list.~~

~~The following list constitutes the official street tree species for the city. No species other than those included in this may be planted as street trees, without written permission of the city tree board:~~

Species	Common Name	Tree Size
<i>ACER</i>		
—A. rubrum	Red Maple	Medium
<i>BACCHARIS</i>		
—B. halimifolia	Groundsel Tree, Salt Bush	Small
<i>BETULA</i>		
—B. nigra	River Birch	Large
<i>CALLISTEMON</i>		
—C. rigidus	Bottlebrush, stiff	Small

— <i>C. viminalis</i>	Bottlebrush, weeping	Small
<i>CARPINUS</i>		
— <i>C. caroliniana</i>	American Hornbeam	Small
<i>CARYA</i>		
— <i>C. floridana</i>	Scrub Hickory	Small
— <i>C. glabra</i>	Pignut Hickory	Large
— <i>C. illinoensis</i>	Pecan	
— <i>C. tomentosa</i>	Mockernut Hickory	Large
<i>CELTIS</i>		
— <i>C. laevigata</i>	Sugarberry (Hackberry)	Medium
<i>CHIONANTHUS</i>		
— <i>C. virginicus</i>	Fringe Tree	Small
<i>CINNAMOMUM</i>		
— <i>C. camphora</i>	Camphor	Medium
<i>CORNUS</i>		
— <i>C. florida</i>	Flowering Dogwood	Small
<i>CRATAEGUS</i>		
— <i>C. sp.</i>	Hawthorne	Small
<i>ERIOPHYLLA</i>		
— <i>E. japonica</i>	Loquat, Japanese Plum	Small

<i>EUCALYPTUS</i>		
— <i>E. ccinerea</i>	Silver Dollar Eucaly	Small
<i>FRAXINUS</i>		
— <i>F. caroliniana</i>	Pop Ash	Medium
<i>GLEDITSIA</i>		
— <i>G. aquatica</i>	Water Locust	Medium
<i>GORDONIA</i>		
— <i>G. lasianthus</i>	Loblolly Bay	Medium
<i>ILEX</i>		
— <i>I. attenuata</i>	East Palatka Holly	Small
— <i>I. cassine</i>	Dahoon Holly	Small
— <i>I. opaca</i>	American Holly	Medium
— <i>I. vomitoria</i>	Yaupon Holly	Small
<i>JUNIPERUS</i>		
— <i>J. siliceicola</i>	Southern Redcedar	Small
<i>KOELREUTERIA</i>		
— <i>K. elegans</i> (bipinnata)	Golden Rain Tree	Medium
<i>LAGERSTROEMIA</i>		
— <i>L. indica</i>	Crapemyrtle	Small
<i>LIGRUSTRUM</i>		

— <i>L. japonicum</i>	Wax Leaf Ligustrum	Small
<i>LIQUIDAMBAR</i>		
— <i>L. styraciflua</i>	Sweetgum	Large
<i>MAGNOLIA</i>		
— <i>M. grandiflora</i>	Southern Magnolia	Large
— <i>M. virginiana</i>	Sweetbay Magnolia	Medium
<i>MYRICA</i>		
— <i>M. cerifera</i>	Wax Myrtle	Small
<i>OSMANTHUS</i>		
— <i>O. americana</i>	Wild Olive, Devilwood	Small
— <i>O. megacarpa</i>	Scrub Olive	Small
<i>PARKINSONIA</i>		
— <i>P. aculeata</i>	Jerusalem Thorn	Small
<i>PERSEA</i>		
— <i>P. borbonica</i>	Red Bay	Medium
<i>PINUS</i>		
— <i>P. clausa</i>	Sand Pine	Large
— <i>P. elliotii</i>	Slash Pine	Large
— <i>P. elliotii</i> var. <i>densa</i> So.	Florida Pine	Large
— <i>P. palustris</i>	Longleaf Pine	Large

PLATANUS

— <i>P. occidentalis</i>	Sycamore	Large
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PRUNUS

— <i>P. angustifolia</i>	Chickasaw Plum	Small
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— <i>P. caroliniana</i>	Cherry Laurel	Medium
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— <i>P. serotina</i>	Wild Black Cherry	Large
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QUERCUS

— <i>Q. chapmanii</i>	Chapman Oak	Small
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— <i>Q. geninata</i>	Sand Live Oak	Small
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— <i>Q. incana</i>	Bluejack Oak	Small
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— <i>Q. laevis</i>	Turkey Oak	Medium
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— <i>Q. laurifolia</i>	Laurel Oak	Large
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— <i>Q. myrtifolia</i>	Myrtle Oak	Small
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— <i>Q. nigra</i>	Water Oak	Large
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— <i>Q. virginiana</i>	Live Oak	Large
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TAXODIUM

— <i>T. distichum</i>	Baldcypress	Large
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TILIA

— <i>T. caroliniana</i>	Carolina Basswood	Large
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ULMUS

U. alata	Winged Elm	Small
U. americana var. floridana	Florida Elm	Large
U. parvifolia	Drake Elm or Chinese Elm	Medium

~~Sec. 25.5 42. Spacing.~~

~~The spacing of street trees will be in accordance with the three (3) species size classes listed in section 25.5 41, and no trees may be planted closer together than the following: Small trees, thirty (30) feet; medium trees, forty (40) feet; and large trees, fifty (50) feet; except in special plantings designed or approved by the landscape architect.~~

~~Sec. 25.5 43. Distance from curb and sidewalk.~~

~~The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three (3) species size classes listed in section 25.5 41, and no trees may be planted closer to any curb or sidewalk than the following: Small trees, two (2) feet; medium trees, three (3) feet; and large trees, four (4) feet.~~

~~Sec. 25.5 44. Distance from street corners and fireplugs.~~

~~No street trees shall be planted closer than thirty five (35) feet from any street corner, measured from the point of nearest intersecting curbs or curblines. No street trees shall be planted closer than ten (10) feet of any fireplug.~~

~~Sec. 25.5 45. Utilities.~~

~~No street trees other than those species listed as small trees in section 25.5 41 may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility.~~

~~Sec. 25.5 46. Public tree care.~~

~~(a) — *Generally.* The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.~~

~~(b) — *Unsafe, diseased, etc., trees; removal.* The city tree board may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or~~

~~which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of the trees is in accordance with sections 25.5-11 through 25.5-45~~

~~Sec. 25.5-47. Tree topping.~~

~~It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this chapter, at the determination of the city tree board.~~

~~Sec. 25.5-48. Reserved.~~

~~**Editor's note**—Ord. No. 09-1354, § 4, adopted Nov. 19, 2009, repealed § 25.5-18 which pertained to excessive growth of grass, weeds and brush, and derived from Ord. No. 733, § 11, adopted Jan. 5, 1989; and Ord. No. 02-1015, § 6, adopted Jan. 17, 2002.~~

~~Sec. 25.5-49. Vegetation protruding in public rights-of-way.~~

~~(a) — *Property owners' responsibilities.* Any property owner who permits or allows vegetation, trees or plantings to grow or extend from the property of such owner into, across or over public rights-of-way in such a manner as to obstruct the free flow of vehicular traffic (including trucks where allowed) upon such rights-of-way or pedestrians from using sidewalks located within such public rights-of-way, shall forthwith and within ten (10) days of being notified of such obstruction, trim or cut such trees, plantings or shrubbery back to his property line so as to not obstruct the free and full use of sidewalks and road rights-of-way by the public.~~

~~(b) — *Abatement by city; recovery of costs.* Upon the owner failing to so trim, the maintenance department shall follow the procedures set forth in section 25.5-48 of this Code for the removal of weeds and brush from private property in order to recoup from the owner the cost of clearing such trees, plantings or shrubbery from the public rights-of-way and having same constitute an assessment against the lands on which such offensive shrubbery, plantings or trees are located.~~

~~Sec. 25.5-50. Construction waste.~~

~~(a) — All temporary buildings used for the construction of any improvements and all building materials and equipment used for the same purpose, including construction waste and debris, except such materials and equipment as has actually been included in~~

~~the improvement itself, shall be removed within thirty (30) days after final inspection of the improvement by the building official of the city. The building official shall not issue a certificate of occupancy for such improvement until such construction waste is so removed.~~

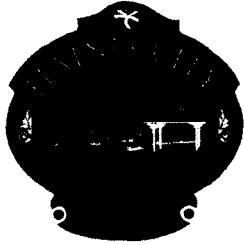
~~(b) — In a single family residentially zoned districts during periods of construction, either new or during the renovation or remodeling of existing structures, the building official or such official's designee shall have the authority depending, on the scale, nature, and pattern of the construction activity as well as the physical constraints of the construction site and area, to require that any roll-off container for the handling of construction debris and waste material be reduced in size, screened from view by being placed in the side or rear yard if reasonably possible, or removed from the property completely should the construction have ceased or not be of the magnitude where a roll-off container is warranted.~~

~~Sec. 25.5 51. — Dead or diseased tree removal on private property.~~

~~The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The city tree Board will notify in writing the owners of such trees. Removal shall be done by the owners, at their own expense, within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provisions, or in event of an emergency, the city shall have the authority to remove such trees and charge the cost of removal to the property and such charge shall constitute a lien on such property until paid.~~

~~Sec. 25.5 52. — Removal of stumps.~~

~~All stumps of street trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.~~



HAINES CITY

WWW.HAINESCITY.COM

CITY CLERK MEMORANDUM

To: The Honorable Mayor and City Commissioners
From: Linda Bourgeois, City Clerk
Date: June 4, 2015
Subject: Tree Board

Introduction

The intent of this business item is to carry out the vision of the City Commission's recommendation to eliminate, consolidate, or establish certain volunteer boards.

Background

At the April 16, 2015, City Commission Workshop, a presentation on Boards and Committees was presented by the City Clerk. In an effort to organize the City's boards it was agreed by consensus that the Tree Board would be eliminated and the duties absorbed by a newly created Parks and Recreation Advisory Board.

Budget Impact

The budgetary impact encompasses advertising and codification services and was budgeted in the 2014-2015 Fiscal Year on page 104.

Recommendation

Approval of the abolishment of the Tree Board.

Attachments:

- a) Abolish Tree Board (DOC)