

PROPOSED
ORDINANCE NO. 26-23

ORDINANCE NO. 04-24

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE CREATING CHAPTER 7-13 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, RELATED TO THE REGULATION OF BUSINESSES ENGAGED IN PRUNING AND REMOVING TREES; ADOPTING APPROPRIATE INDUSTRY STANDARDS; PROVIDING FOR PENALTIES FOR DEVIATION FROM INDUSTRY STANDARDS; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Pensacola seeks to preserve healthy trees within the city limits by establishing penalties for failure to follow industry standards for pruning and for removal of trees; and

WHEREAS the City of Pensacola's permit process promotes public safety by incorporating industry standards on pruning and removal of trees; and

WHEREAS, the City of Pensacola has identified public safety hazards resulting from the failure of businesses to follow industry standards concerning tree pruning and removal; and

WHEREAS, the City of Pensacola recognizes that the public interest is harmed by the higher risk of injury and economic impact of removing tree hazards caused by business operators, inadvertently or knowingly, proceeding to prune or remove trees without permits or in disregard of industry standards; and

WHEREAS, the City Council of the City of Pensacola finds that the following ordinance provides standards and requirements that will promote public safety;

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 7-13-1 of the Code of the City of Pensacola, Florida, is hereby created to read as follows:

Sec. 7-13-1 – Definitions.

Arborist means an International Society of Arboriculture-Certified Arborist who is qualified to perform prescription pruning:

Business tax receipt has the meaning found in Chapter 7-2, Code of Ordinances for the City of Pensacola:

Commercial tree trimming or removal company means a business entity or individual engaged in the pruning or removal of trees for compensation.

SECTION 2. Section 7-13-2 of the Code of the City of Pensacola, Florida, is hereby created to read as follows:

Sec. 7-13-2 – Pruning or removing trees – authority

- (a) A commercial tree trimming or removal company is authorized to engage in pruning, trimming, or removal of trees within the city limits only if it possesses a valid business tax receipt pursuant to Chapter 7-2, Code of Ordinances of the City of Pensacola.
- (b) A commercial tree trimming or removal company, before engaging in pruning, trimming, or removal of trees within the city limits, shall verify whether a permit is required and, if required, obtain the permit on behalf of the property owner, and further satisfy all permitting requirements established by the city's designated arborist prior to performing the work.

SECTION 3. Section 7-13-3 of the Code of the City of Pensacola, Florida, is hereby created to read as follows:

Sec. 7-13-3 – Industry Standards Applicable to Tree Pruning and Removal

All contractors performing tree care within the City of Pensacola be required to follow arboricultural industry standards, both the ANSI A300 & ANSI Z133 Work and Safety Standards, and all subsequently updates to applicable standards as identified by the International Society of Arboriculture, including but not limited to the following:

- (a) the requirement that an arborist perform the pruning and removal in according with a pruning prescription and
- (b) the requirement that an onsite assessment be performed in accordance with the tree risk assessment procedures outlined in Best Management Practices - Tree Risk Assessment, Second Edition (2017) by an arborist certified by the International Society of Arboriculture (ISA).

SECTION 4. Section 7-13-4 of the Code of the City of Pensacola, Florida, is hereby created to read as follows:

Sec. 7-13-4 – Enforcement

Stop work order. Whenever the city's designated arborist determines that a violation of this chapter has occurred, the following actions shall be initiated:

(a) Written notice. Immediately issue written notice by personal delivery or certified mail to the commercial tree trimming and removal company as defined herein, with a copy to the property owner, of the nature and location of the violation, specifying what remedial steps are necessary to bring the project into compliance. The recipient of the notice shall immediately, conditions permitting, commence the recommended remedial action and shall have ten working days after receipt of said notice, or such longer time as may be allowed by the city's designated arborist, to complete the remedial action set forth in said notice.

(b) Remedial work and stop work orders. If a subsequent violation occurs during the ten working days referred to in subsection (a)(1) above, or if remedial work specified in the notice of violation is not completed within the time allowed, or if clearing and development of land is occurring without a permit, then the city's designated arborist shall issue a stop work order immediately. Said stop work order shall contain the grounds for its issuance and shall set forth the nature of the violation. The stop work order shall be directed not only to the person owning the land upon which the clearing and development is occurring, but also a separate stop work order shall be directed to the person or firm actually performing the physical labors of the development activity or the person responsible for the development activity, directing him or her forthwith to cease and desist all or any portion of the work upon all or any geographical portion of the project, except such remedial work as is deemed necessary to bring the project into compliance. If such person fails to complete the recommended remedial action within the time allowed, or fails to take the recommended action after the issuance of such stop work order, then the city's designated arborist may issue a stop work order on all or any portion of the entire project.

(c) Notice of compliance. Upon completion of remedial steps required by notice the city's designated arborist shall issue a notice of compliance and cancellation of said notice or stop work order.

SECTION 5. Section 7-13-5 of the Code of the City of Pensacola, Florida, is hereby created to read as follows:

Sec. 7-13-5 – Penalties.

(a) The fine for violating this chapter shall be based on the size of limb(s) or the tree(s) removed without a permit. The measurement to establish said fine shall be based on the remaining tree material left intact on the site. If a tree is removed, the trunk caliper shall be measured at DBH and at the point of removal for a limb or each limb. If, in the opinion of the city's designated arborist, the tree has been substantially damaged so that its normal growth character will never return, i.e., a tree is topped and will never recover the original character, then the fine may be based upon the caliper of the tree trunk or each limb removed, whichever is the greater. Each day a violation of a stop work order continues shall constitute a separate offense (see subsection 7-10-6(b), penalty fees, of this Code). Each protected tree removed without a permit or in violation of a permit shall constitute a separate offense. Any person may seek an injunction against any violation of this chapter and recover such damages as he or she may suffer.

(b) Fines for violating this chapter, when paid, shall be deposited into the tree planting trust fund established pursuant to section 12-6-6.

(c) The city's designated arborist, upon a finding of a willful violation of this chapter by a commercial tree trimming or removal company, shall send a notice to the offending party that its business tax receipt is void. The notice shall provide information on how to appeal the determination. A second violation of this chapter by a commercial tree trimming or removal company shall establish a rebuttable presumption that the violation was willful. A third violation of this chapter by a commercial tree trimming or removal company is clear and convincing evidence of a willful violation.

(d) A commercial tree trimming or removal company may appeal the voiding of its business tax receipt or satisfy the remedial requirements set forth by the city's designated arborist to have its business tax receipt restored.

SECTION 6. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 7. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 8. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided, pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: January 18, 2024

Approved: s/Casey Jones
President of City Council

Attest:

s/Ericka L. Burnett
City Clerk