

## **ORDINANCE NO. 2019-17**

**AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 16 ZONING REGULATIONS, ARTICLE 7 LANDSCAPING, AT DIVISION 1. GENERAL REQUIREMENTS, BY AMENDING SECTION 16-1249, BUILDING PERMIT FOR VEGETATION REMOVAL REQUIRED; TO UPDATE LANDSCAPING REGULATIONS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, during the 2019 Legislative Session, the state legislature passed the Committee Substitute to House Bill No. 1159 amending Section 163.045, Florida Statutes, curtailing the City's home rule powers in relation to the pruning, trimming, and the removal of trees in the City; and

**WHEREAS**, such legislation was approved by the Governor of the State of Florida on June 24, 2019, and became effective on July 1, 2019 under Chapter 2019-120, Laws of Florida; and

**WHEREAS**, as a result of the foregoing curtailment of the City of Greenacres' home rule powers, amendments to the City's Code of Ordinances are necessary to avoid conflict with Section 163.045, Florida Statutes; and

**WHEREAS**, this Ordinance is enacted pursuant to the home rule powers of the City of Greenacres as set forth in Article VIII, Section 2, of the Constitution of the State of Florida, Chapter 166, Florida Statutes, and other applicable controlling laws; and

**WHEREAS**, it has been determined, in accordance with the Land Development Staff Report and Recommendation, "Exhibit A" dated October 30, 2019 (attached), that certain amendments to the City's zoning regulations are appropriate; and

**WHEREAS**, the Planning Commission on November 6, 2019, held a duly advertised public hearing and recommended approval of ZTA-19-04 and adoption of Ordinance 2019-17 as presented by staff; and

**WHEREAS**, the City of Greenacres has held two (2) duly advertised public hearings to review this request; and

**WHEREAS**, the City Council of Greenacres finds that it is in the best interests of the citizens of the City of Greenacres that the provisions Chapter 16 of the City's Zoning Code be amended; and

**WHEREAS**, the City Council of Greenacres finds that the amendments contained within this ordinance will promote the health, safety and welfare of the citizens of Greenacres.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF GREENACRES, FLORIDA, AS FOLLOWS:**

**Section 1.** Chapter 16, Article VII, Division 1 is hereby amended as follows:

\* \* \* \* \*

*[Sections 16-1241 through 16-1248 to remain unchanged and are omitted for brevity]*

Sec. 16-1249. - Building permit for vegetation removal required.

(a) Applicability. Unless otherwise provided in this article, no person, firm, corporation, association, public agency, or agent or employee, shall destroy, remove, or relocate acceptable vegetation not listed in Table 16-1312(a) from any property without first obtaining a building permit for vegetation removal from the city.

- (1) For residential developments and subdivisions with approved landscape plans and homeowners associations, a building permit is required for vegetation removal. A homeowners association letter of approval must be included in the application. Each tree removed must be replaced with a new

tree that meets City Code requirements, located in accord with the approved landscape plan.

- (2) For residential developments and subdivisions without approved landscape plans and with a homeowners association, a building permit is required for vegetation removal. A homeowners association letter of approval must be included in the application. Each tree removed must be replaced with a new tree that meets City Code requirements if removal reduces the number of trees on the lot below Code minimums for quantity. Replacements shall be located on the affected lot.
  - (3) For residential developments and subdivisions without approved landscape plans and without a homeowners association, a building permit is required for vegetation removal. Each tree removed must be replaced with a new tree that meets current City Code requirements if removal reduces the number of trees on the lot below Code minimums for quantity. Replacements shall be located on the affected lot.
- (b) Exemptions.
- (1) Prohibited trees listed in Table 16-1312(a) may be removed for any reason without a permit for vegetation removal.
  - (2) Other than for trees, the permit requirement for vegetation removal at single-family and duplex residential lots may be waived at the discretion of the planning and engineering director or designee if the vegetation to be removed is replaced at a 1:1 ratio.
  - (3) Trees with a trunk less than one (1) inch in diameter, measured at a point which is at least four and one-half (4½) feet above finished grade, may be removed without a permit.
  - (4) Removal of dead trees requires a permit, and may require replacement trees to be planted as provided elsewhere in this article, however the permit shall be issued at no charge.
  - (5) In the event that a replacement tree is not required as a result of an approved removal (such as if the lot will meet or exceed the minimum tree count requirement after removal), the permit for removal shall be issued at no charge.
  - (6) Residential Property. As referenced in Section 163.045, Florida Statutes, residential property shall be defined as fee-simple, single-family, attached or detached, or duplex lots. Those parcels or lots that comprise the common elements or community property, in whole or in part, within a PCD, PUD, and or MXD shall not be defined as or deemed to be “residential property” for the purposes of Section 163.045, Florida Statutes. Residential properties that utilize the State Statute exemption are required to file the required documentation from an arborist certified by the International

Society of Arboriculture or a Florida licensed landscape architect that provides a reason and justification that the tree presents a danger to persons or property with the City's Planning & Engineering Department.

*[Section 16-1249(c) through (g) and Section 16-1250 to remain unchanged and are omitted for brevity]*

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**Section 2. Repeal of Conflicting Ordinances.**

All Ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

**Section 3. Severability.**

If any section, part of a section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holdings of invalidity shall not affect the remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass the Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts shall be deemed to be held valid as if such part or parts had not been included therein, or if this Ordinance or any of the provisions thereof shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances.

**Section 4. Inclusion in Code**

It is the intention of the City Council, entered as hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Code of Laws

and Ordinances of the City of Greenacres, Florida; that the Section(s) of this Ordinance may be renumbered or re-lettered to accomplish such intention, and that the word "Ordinance" may be changed to "Section", "Article" or another word.

**Section 5. Effective Date.**

The provisions of this Ordinance shall become effective five (5) days after it is adopted.

Passed on the first reading this 2<sup>nd</sup> day of December, 2019.

**PASSED AND ADOPTED** on the second reading this 16<sup>th</sup> day of  
December, 2019.

**Voted**

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**Joel Flores**  
**Mayor**

**Attest:**

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**Quintella Moorer, CMC**  
**City Clerk**

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**Judith Dugo**  
**Deputy Mayor**

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**John Tharp**  
**Council Member, District I**

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**Peter Noble**  
**Council Member, District II**

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**Jonathan G. Pearce**  
**Council Member, District IV**

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**Paula Bousquet**  
**Council Member, District V**

**Approved as to Form and Legal Sufficiency:**

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**Glen J. Torcivia**  
**City Attorney**