

ORDINANCE 2010-23

AN ORDINANCE OF THE CODE OF ORDINANCES OF THE TOWN OF LONGBOAT KEY, FLORIDA, AMENDING CHAPTER 98, *TREES*, TO DELETE SECTIONS 98.01 THROUGH 98.12 AND ADDING SECTION 98.01, *INTENT*; SECTION 98.02, *DEFINITIONS*; SECTION 98.03, *MANGROVE TRIMMING OR REMOVAL*; SECTION 98.04, *TRIMMING OF TREES OTHER THAN MANGROVES*; SECTION 98.05, *EXEMPTION FOR IMPROVED SINGLE-FAMILY LOTS*; SECTION 98.06, *PERMITS FOR TREE REMOVAL*; SECTION 98.07, *PROTECTION OF TREES DURING SITE DEVELOPMENT*; SECTION 98.08, *PROHIBITED PLANTINGS, REMOVAL OF NUISANCE EXOTIC SPECIES, PROTECTION OF UTILITY FACILITIES*; SECTION 98.09, *PUBLIC EDUCATION*; SECTION 98.10 PETITION FOR REVIEW; SECTION 98.11 PENALTY; PROVIDING FOR SEVERABILITY; ADDING AN APPENDIX, TREES CODE ILLUSTRATIONS; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Longboat Key is a place of exceptional natural beauty, which is an important reason people enjoy living, visiting, and working on the island; and

WHEREAS, the residents of Longboat Key have historically enjoyed a rich natural environment including clean air and water, abundant bird life, and lush landscaping; and

WHEREAS, trees and other plantings make a significant contribution to our perception of the beauty of Longboat Key and to the ecological health of our environment; and

WHEREAS, it is a matter of public policy that the health, safety, welfare, and economic well-being of the residents and property owners of Longboat Key is served by the protection of trees and this ordinance increases that protection; and

WHEREAS, the Town commission formed a subcommittee with the Planning and Zoning Board to hold public hearings on the topic; and

WHEREAS, the Tree Code subcommittee made a recommendation for changes to the Trees Code to the Planning and Zoning Board; and

WHEREAS, pursuant to Town Code Section 158.030(B), the Planning and Zoning Board, as the local land planning agency, considered the subject code amendment at its regular meeting of September 21, 2010; and

WHEREAS, the Planning and Zoning Board determined that the public would benefit from minor changes and simplification of the Trees Code; and

WHEREAS, the Planning and Zoning Board finds that these amendments to the Tree code are consistent with the Town of Longboat Key Comprehensive Plan; and

WHEREAS, at a duly noticed public hearing, the Planning and Zoning Board voted to recommend that the Town Commission approve this Code amendment; and

WHEREAS, the Town Commission of the Town of Longboat Key finds that the proposed code amendments are in the best interest of the Town and consistent with the Town's comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF LONGBOAT KEY, FLORIDA THAT:

SECTION 1. The WHEREAS clauses above are ratified and confirmed as true and correct.

SECTION 2. Chapter 98, *Trees*, is hereby amended by deleting Sections 98.01 through 98.12 and inserting in its place the following:

98.01 Intent.

The protection of trees within the Town of Longboat Key is desirable and essential to the present and future health, safety and welfare of the citizens of Longboat Key. It is the intent of this code to protect existing trees, encourage the planting of trees other than trees that are nuisances, and to maintain and enhance tree canopy within the Town. All properties within the Town are subject to the regulations contained within this chapter.

98.02 Definitions.

"TREE." Any living, self-supporting woody plant having a diameter of four inches or more when measured four and one-half feet above ground level, and which will typically reach ten feet or more in height. For the purpose of this chapter, all species of mangroves, and all palms with four and one-half feet of clear trunk when measured from ground level are declared to be trees and are protected by the provisions of this chapter.

"TREE REMOVAL." To relocate or, cut down, damage, or poison or in any other manner destroy, or cause to be destroyed, a tree as defined in this chapter.

"DRIP LINE." The peripheral limits of horizontal crown spread projected vertically to the ground.

"IMPROVED SINGLE-FAMILY LOT." A lot zoned for single-family use containing an existing single dwelling unit.

"MATURE REPLACEMENT TREE." A tree with a diameter of two inches or more measured four and one-half feet above ground level, at least 10 feet in height from ground level when planted, and with a height of at least 25 feet with a canopy spread of at least 20 feet at maturity. Three 10-foot tall palms grouped to create a canopy of not less than 15 feet may be substituted for one mature replacement tree.

98.03 Mangrove trimming or removal.

(A) Mangrove trimming requires a state permit and shall be in accordance with the laws of the State of Florida; no additional local permit is required for Mangrove trimming.

(B) Mangroves cannot be removed unless a permit is obtained from the appropriate state agencies and the Town as set forth below.

98.04 Trimming of trees other than mangroves.

All trimming of trees shall conform to American National Standards Institute (ANSI) A300 Standards-1995 or the most recent edition. In the Town of Longboat Key Arborists, Landscape Architects, or other licensed professionals are not required to write standards, inspect or administer tree trimming unless required by state or federal agencies.

98.05 Exemption for improved single-family lots.

Improved single-family lots are exempt from the tree removal permit provisions as set forth in Section 98.06, but not from the regulations for protected tree species under state or federal law.

98.06 Permits for tree removal or relocation.

Tree removal or relocation is prohibited unless the Town Manager or his designee has issued a tree permit based upon the requirements of this chapter.

(A) Review and approval procedure. A tree permit may be issued if the Town Manager finds that any one of the following conditions applies.

- (1) The condition of the tree has significantly degraded or deteriorated because of disease or insect attack and is in danger of falling within the proximity of existing or proposed structures;
- (2) The applicant cannot practically alter or revise the proposed development or improvement under all applicable laws and regulations to accommodate existing trees, including the tree or trees proposed to be impacted;
- (3) Removal of the tree will enhance the ultimate tree canopy and removal will not result in erosion, or adversely affect the flow of surface waters; or
- (4) The tree poses a significant safety hazard to life or property.

(B) Applications for tree removal or relocation shall provide a site plan including the shape and dimensions of the lot, together with existing and proposed driveways, structures, and improvements. The plan shall indicate the location, type, species, and size of existing trees and shall include:

- (1) Those trees requested to be removed or relocated.
- (2) A statement explaining why the trees are requested to be removed or relocated.
- (3) A statement explaining how any remaining trees or trees proposed to be relocated are to be protected during construction.
- (4) Any other material or information deemed necessary in reviewing the criteria as set out in subsection (A).

(C) Fees. The application fee for tree removal is \$50.00. This fee may be modified by Resolution of the Town Commission. Additional costs, including staff time, may be incurred as necessary depending on the scope and complexity of the project.

(D) Permit conditions for tree removal, replacement or relocation.

(1) Generally two mature replacement trees will be required for the removal of each tree; the site, size, and species of the trees being removed will be considered when determining the actual tree replacement ratio.

(2) Where feasible the applicant shall be required to relocate, rather than remove, the tree. Relocation shall depend upon the size, condition, and species of the

tree to be relocated, as well as whether survival of the relocated tree may be reasonably anticipated. Replacement trees are not required for relocated trees.

(3) The applicant will be required to relocate or replace a tree being removed, at the applicant's expense, on the site, or with the concurrence of the Town, on public land.

(4) When mature replacement trees cannot be planted on the applicant's land, or on public land, or relocation is not feasible, a tree replacement fee of \$300 per mature replacement tree, shall be paid to the Town. These funds shall be kept in an account and used only for the designated replacement or planting of trees on public property.

98.07 Protection of trees during site development.

(A) Prior to land development, all trees shall be clearly marked to indicate which trees are permitted for removal and barriers shall be erected for the protection of the trees to be preserved using best management practices approved by Town staff.

(B) Silt screens shall be required where mangroves or wetlands could be affected by construction or runoff from construction.

(C) A performance bond may be required for the restoration or replacement of any preserved trees on the site, which have been adversely affected by construction activities, as determined by the Town.

98.08 Prohibited plantings; removal of nuisance exotic species; protection of utility facilities.

(A) It is unlawful to plant, transplant, or grow from seed any nuisance exotic plant species listed below, and these species are exempt from permits for tree removal.

- (1) *Schinus terebinthifolius* (Brazilian Pepper Tree)
- (2) *Melaleuca quinquenervia* (Punk Tree)
- (3) *Enterolobium cyclocarpum* (Ear Tree)
- (4) *Melia azedarach* (Chinaberry Tree)
- (5) *Ficus retusa* (Cuban Laurel)
- (6) *Grevillea robusta* (Silk Oak)
- (7) All *Eucalyptus*, except *E. cinera* (Silver Dollar Tree)
- (8) *Ficus aurea* (Strangler Fig)
- (9) *Dalbergia sissoo* (India Rosewood)
- (10) *Casuarina* (Australian Pine)
- (11) *Cupaniopsis anacardioides* (Carrotwood)

(B) Protection of electric facilities. No tree shall be planted where at mature height it may conflict with overhead electric facilities.

(1) Large trees (trees with a mature height of 30 feet or more) shall be planted no closer than a horizontal distance of 30 feet from any overhead electric facility.

(2) Medium trees (trees with a mature height of 20 to 30 feet) shall be planted no closer than a horizontal distance of 20 feet from any overhead electric facility.

(3) Palms shall be planted no closer than three feet from the mature maximum frond length from any overhead electric facility.

(C) The Florida Department of Transportation, municipal utilities, and public utilities may remove trees without a permit when they endanger public safety and

welfare and are located within utility easements and public rights-of-way or are interfering with utility service.

(D) Removal of nuisance exotic species. The Town shall require the removal of all trees in the genus *Casuarina* (Australian Pine), *Schinus terebinthifolius* (Brazilian Pepper Tree) and *Cupaniopsis anacardioides* (Carrotwood) from all real property being prepared for development or redevelopment, including single-family lots.

98.09 Public education.

(A) The following native trees are specifically recommended as replacement trees. However, other native and non-native trees may be appropriate as replacements for the island environment; therefore, this list is not all inclusive.

Name	Mature Height	Growth Rate	Salt Tolerant	Cold Hardy
Mahogany (<i>Swietenia mahoganii</i>)	35'	Fast	High	Low
Sea Grape (<i>Coccoloba uvifera</i>)	30'	Moderate	High	Low
Live Oak (<i>Quercus virginiana</i>)	70'	Moderate	High	High
Gumbo Limbo (<i>Bursera simaruba</i>)	60'	Fast	High	Low
Southern Magnolia (<i>Magnolia grandiflora</i>)	50'	Slow	Moderate	High
Red Bay (<i>Persea borbonia</i>)	35'	Moderate	High	High
Silver/Green Buttonwood (<i>Conocarpus erectus</i>)	35'	Slow	High	Low
Wax Myrtle (<i>Myrica cerifera</i>)	25'	Moderate	High	High
Southern Red Cedar (<i>Juniperus silicicola</i>)	30'	Slow	High	High
Black Olive (<i>Bucida buceras</i>)	40'	Moderate	High	Low
Cabbage Palm (<i>Sabal palmetto</i>)	40'	Slow	High	High
Everglades Palm (<i>Acoelorrhaphe wrightii</i>)	25'	Slow	High	Moderate
Royal Palm (<i>Roystonea regia</i>)	50'	Moderate	Moderate	Moderate
Canary Island Date Palm (<i>Phoenix canariensis</i>)	60'	Slow	Moderate	High

(B) Information on native trees, and trees appropriate for our coastal environment, can be obtained from the following agencies, and other sources. This list should not be considered all inclusive.

- (1) Sarasota Forestry Division
- (2) Institute of Food & Agricultural Sciences Sarasota County Extension Service
- (3) Institute of Food & Agricultural Sciences Manatee County Extension Service
- (4) Florida Native Plant Society
- (5) Association of Native Plant Nurseries

(C) An illustration has been provided in the appendix of this chapter showing the recommended method of trimming palms. Reference Appendix: Trees Code Illustration, Exhibit "A": Illustration of Palm Trimming.

98.10 Petition for review.

Any person who is aggrieved by the enforcement of this chapter by any administrative official shall, within thirty days, file a petition with the Zoning Board of

Adjustment. The form of the appeal shall comply with Section 158.027 of the Town's Zoning Code.

98.11 Penalty.

Any person found guilty of violating any provisions of this chapter or, any order issued pursuant thereto, shall upon conviction be punished by a fine not exceeding \$500 or by imprisonment for a term not exceeding 60 days. In a prosecution under this chapter, each tree removed, damaged, or destroyed will constitute a separate offense.

SECTION 3. If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

SECTION 4. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 5. This Ordinance shall take effect upon second reading in accordance with Law and the Charter of the Town of Longboat Key.

Passed on the first reading the 1st day of November, 2010.

Adopted on the second reading and public hearing the 6th day of Decemember, 2010.

/s/ George Spoll
George Spoll, Mayor

ATTEST:

/s/ Trish Granger
Trish Granger, Town Clerk
Attachment: Exhibit 'A', Trees Code Illustration

Exhibit "A"

APPENDIX: TREES CODE ILLUSTRATIONS.

(A) Palm trimming recommendations for illustrative purposes only.

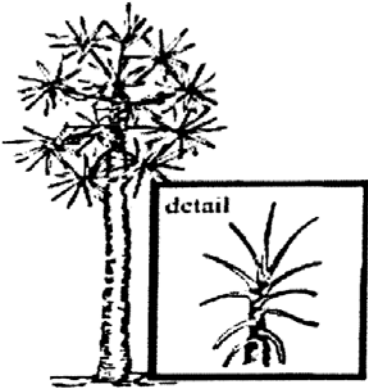
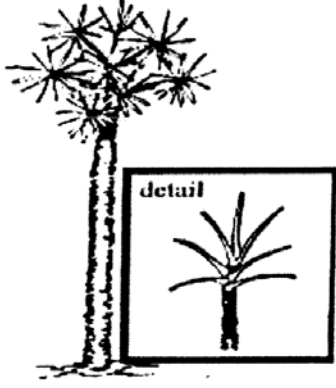
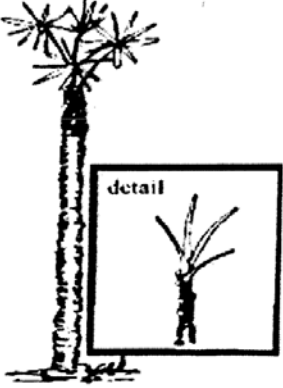
<p>before pruning</p> 	<p>after pruning</p> 	<p>over-pruning</p> 
<p>Consider removing lower fronds that are chlorotic or dead. There is no biological reason to remove live green fronds on palms. There is no research supporting the notion that removing live green fronds reduces future pruning</p>	<p>Remove lower fronds that are dead or more than about half chlorotic. Do not remove green fronds or the palm could become stressed. (If you decide to remove green fronds, do not remove those growing horizontally or pointed upward.)</p>	<p>Over-pruned palms look terrible and could attract pests. In the detail above you can see that many upright fronds were removed. Why remove green fronds when the palm was planted for its tropical look. That tropical look results from live green fronds.</p>

Illustration provided by IFAS Publications