

ORDINANCE NO. 11-O-12

AN ORDINANCE OF THE CITY OF TALLAHASSEE, FLORIDA, AMENDING CHAPTER 5, ENVIRONMENTAL MANAGEMENT, LAND DEVELOPMENT CODE TO ADD A PROVISION EXEMPTING CITY UTILITIES FROM PERMIT REQUIREMENTS FOR REMOVING TREES ON EXISTING UTILITY EASEMENTS; PROVIDING FOR CONFLICTS, SEVERABILITY, AN EFFECTIVE DATE.

WHEREAS, the City of Tallahassee owns, operates and maintain an extensive utility system, including potable water wells and pipelines, sanitary sewer conveyance and treatment facilities, storm water collection, conveyance and treatment facilities, gas mains and appurtenances, and power transmission and distribution systems; and

WHEREAS, many of the utility lines and facilities are located within utility easements over private land and within utility rights-of-way owned by the City; and

WHEREAS, the facilities must be routinely inspected, maintained, and repaired to the extent that access to them is a critical component of each utility provider's mission; and

WHEREAS, access for maintenance is sometimes blocked by unchecked vegetative growth; and

WHEREAS, to properly inspect and maintain the utility lines and facilities, the vegetative growth must be cleared; and

WHEREAS, to enable each utility provider the right to cut trees that are regulated by the City's environmental regulations without the need and expense of obtaining individual permits, the City has determined that it is

reasonable to approve an exemption from the permit requirements for City utility providers as long as the utility provider obtains clearance from the Director of the Growth Management Department prior to tree removal.

NOW THEREFORE, BE IT ENACTED by the people of the City of Tallahassee as follows:

Section 1. Section 5-83, Tree protection and removal standards, Chapter 5, Environmental Management, Tallahassee Land Development Code, is amended as follows:

Sec. 5-83. - Tree protection and removal standards.

(a) *Official trees.* The live oak (*Quercus virginiana*) shall be the official shade tree, and the dogwood (*Cornus florida*) shall be the official flowering tree, of the city.

(b) *Applicability.* The following requirements shall apply to all new development and redevelopment in the city except as specified in subsection (c) below. Information required by this section shall be provided as part of the environmental management permit application.

(c) *Exemptions.* Tree removal under one or more of the following circumstances shall not require a permit and replanting/debits shall not be required:

(1) *Nursery trees.* The removal of any tree planted and grown in the ordinary course of business of a lawful plant or tree nursery;

(2) *Emergency situation.* The removal of any tree during or following an emergency or an act of nature, when the director determines that permitting requirements will hamper private or public work to restore order to the city;

(3) *Single-family detached residential dwelling units.* The removal of non-patriarch trees up to 36 inches in diameter at breast height, located

on lots developed with single-family detached residential units during development and post-development;

(4) *Safety hazard.* The removal of any tree which the director finds to be in such a dangerous condition or pose such an imminent hazard as to endanger the public health, welfare, or safety and therefore to require immediate removal;

(5) *Diseased or pest-infested trees.* The removal of a diseased or pest-infested tree for the purpose of preventing the spread of the disease or pests;

(6) *Approved silvicultural activities complying with requirements found in section 5-84.* Tree removal, except for patriarch tree or any tree in a canopy road tree protection zone, necessary for a project which the director has determined is a bona fide agricultural use provided that an environmental management permit for the project has been approved by the director pursuant section 5-56 of this chapter.

(7) *Noxious invasive trees.* Upon verification by the city urban forester, or city growth management department, land use and environmental services division:

- a. Chinese Tallow.
- b. Mimosa.
- c. Tung Oil.
- d. Chinese Umbrella Tree.
- e. China Berry.
- f. Trees listed in the "nuisance trees list" by department of environmental protection.

(8) *Existing Utility Easements.* Upon approval by the director, the removal of any tree, that is the result of voluntary growth, within any utility easement or utility right-of-way that is required to inspect, maintain and construct improvements to the existing utility infrastructure within the easement or right-of-way. This provision does not apply to trees that were retained from prior permits . This provision applies only to work performed by or under the direction of a City-owned utility, and will not be considered exempt unless approved by the director on a case-by-case basis. This provision is intended to allow the

continued operation of existing utilities and is not to be used to extend infrastructure where no infrastructure currently exists. This provision shall not be applied to conservation and preservation areas.

Section 2. Conflicts. All ordinances and parts of ordinances of the Code of Ordinances of the City of Tallahassee, Florida, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 3. Severability. If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

Section 4. Effective Date. This ordinance shall be effective immediately upon adoption.

INTRODUCED in the City Commission on the 13th day of April, 2011.

PASSED by the City Commission on the 27th day of April, 2011.

CITY OF TALLAHASSEE

By: _____
John R. Marks, III
Mayor

ATTEST:

APPROVED AS TO FORM:

By: _____
Gary Herndon
City Treasurer-Clerk

By: _____
James R. English
City Attorney