

ORDINANCE NO. 18-2024

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, AMENDING THE ZONING ORDINANCE OF THE CITY OF COCOA REGARDING TREE PROTECTION AND PRESERVATION; AMENDING PROCEDURES RELATED TO WAIVERS OF TREE PROTECTION AND PRESERVATION REQUIREMENTS; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Cocoa is granted the authority, under Section 2(b), Article VIII, of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, City Council finds that trees benefit the City by decreasing urban noise, urban heat islands, air pollution, and flooding, by providing habitat for urban wildlife, and by contributing to property values and the character of the City; and

WHEREAS, the City Council desires to ensure that the City continues to realize the benefits provided by its urban forests, as recognizes by its “Tree City USA,” designation; and

WHEREAS, the City Council further desires to amend its tree preservation and replacement requirements related to replacement of palm trees and to ensure that the appropriate boards and the City Council will make decisions related to waivers from this ordinance; and

WHEREAS, on November 6, 2024, the City’s Planning and Zoning Board/Local Planning Agency/Tree Board reviewed this Ordinance, held a public hearing, and recommended approval of this Ordinance; and

WHEREAS, the City Council of the City of Cocoa, Florida, hereby finds this Ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Cocoa; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are hereby fully incorporated herein by this reference as legislative findings of the City Council of the City of Cocoa.

Section 2. Code Amendment. The City of Cocoa Code of Ordinances, Appendix A, Zoning is hereby amended as follows (underlined type indicates additions and ~~strikeout~~ type indicates deletions while asterisks (* * *) indicate a deletion from this Ordinance of text existing in Appendix A, Zoning. It is intended that the text in Appendix A, Zoning, denoted by the asterisks

and set forth in this Ordinance shall remain unchanged from the language existing prior to the adoption of this Ordinance):

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APPENDIX A - ZONING

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ARTICLE XIII. – SUPPLEMENTARY DISTRICT REGULATIONS

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Sec. 22. – Landscape requirements.

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(B) DEFINITIONS. [For the purpose of this section, certain words or terms used herein shall be interpreted as follows:]

* * *

Tree: A woody or fibrous perennial plant with an upright trunk which normally grows, or is capable of growing, to an overall height of a minimum height of fifteen (15) feet in the central coastal area of Florida, and having a trunk diameter of six (6) inches or greater as measured diameter at breast height (d.b.h.) or four and one-half (4½) feet above actual grade. For purposes of subsection (E), palm trees shall be considered a tree only to the extent that it has a trunk diameter of twelve (12) inches or greater as measured at breast height (d.b.h.) and is a palm tree species which normally grows, or is capable of growing, to an overall height of a minimum of fifteen (15) feet or greater in the central coastal area of Florida.

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(E) TREE PROTECTION AND PRESERVATION.

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(5) Tree replacement.

- (a) As a condition of granting a tree removal permit, the applicant shall be required to replace trees being removed at its sole cost.
- (b) Tree species. Whenever possible and practicable, trees should be replaced with the same species as those removed or, to encourage lower maintenance and water

conservation and the planting of the right trees in the right place, trees listed on the UF/IFAS Florida-Friendly Plant Selection and Landscape Design List. When palm trees are removed, they are required to be replaced as provided in Table 2 only when the tree has a trunk diameter of twelve (12) inches or greater as measured at breast height (d.b.h.) and is a palm tree species which normally grows, or is capable of growing, to an overall height of a minimum of fifteen (15) feet or greater in the central coastal area of Florida. When palm trees are used as a replacement tree, they must be capable of having a mature height taller than twelve (12) feet and cannot constitute more than thirty-five (35) percent of the total replacement inches required.

- (c) Trees removed by the city. Except where tree board recommendation or approval is required in subsection (H)(1)(d) below, specimen trees removed by the city on public property or within the right-of-way and that are not within the building envelope (structure and seven and one-half (7 ½) feet around the perimeter) shall be replaced with either a tree of the same species or a tree of a different species that is more suitable for the location as determined by the city arborist or an arborist certified by the International Society of Arboriculture. The replacement trees shall be planted in a location deemed most appropriate by the director of public works or his or her designee.
- (d) Replacement credit for trees preserved. To encourage the retention of existing trees in the city, the following credits shall be applied to reduce the number of replacement trees required by this section, excluding wetland areas that are to remain undisturbed and existing conservation areas:

TABLE 1.

D.B.H of Preserved Tree	Reduction in Replacement Trees* **
6"—23"	For every 12" preserved, 1 credit
24"—35"	8 Credits
36"—42"	10 Credits
Greater than 42"	12 Credits
* One credit is equivalent to a 3" replacement tree.	
** For each tree located within a public conservation area dedicated to the city as part of a development project or within an area to be conveyed to the city (excluding jurisdictional wetlands determined by the St. John's River Water Management District or the U.S. Army Corp of Engineers, or as depicted on the map of existing wetlands in the city comprehensive plan), three (3) additional replacement tree credits may be applied for each tree preserved within the area. However, the minimum tree planting requirements set forth in Subsection (D) shall still apply. Such public conservation area or land area conveyed to the city must be at least one-half <u>one</u> acre with widths not less than 75 <u>one-hundred twenty-five (125)</u> feet, unless otherwise approved by the city council.	

- (e) Size and number of replacement trees. Where replacement tree(s) are required, the appropriate number of trees shall be planted as provided in Table 2, less any replacement credit for preserved trees. Further, trees removed within the building envelope (structure and seven and one-half (7 ½) feet around the perimeter) shall not be required to be replaced. The replacement trees shall further have a minimum d.b.h., depending upon the diameter of the tree removed, as described in the table below.

TABLE 2—Tree Replacement Standards

D.B.H. of Protected Tree	Number of Replacement Trees Required for Each Tree Removed	Minimum Size of Replacement Tree	Total Replacement Required (Inches)
<u>Palm Tree (12" or greater)</u>	<u>1</u>	<u>3"</u>	<u>3"</u>
6"—12"	1	3"	3"
13"—23"	4	3"	12"
24" and above (Specimen)	Minimum of 9	3"	Minimum 27" or equivalent to inches removed

* * *

- (h) Waiver. ~~The board of adjustment~~ Except as provided herein, the planning and zoning board may grant a waiver to provisions of this subsection in accordance with the criteria and procedures established in Article XVII, Section 8 of the Zoning Ordinance related to Waivers from certain Code provisions, where the applicant demonstrates that the literal interpretation of this section will deny the applicant reasonable use of the property or where such waiver can be demonstrated to be consistent with the purpose and intent of this section. Any applications for a waiver related to the contribution amount to the Arbor Mitigation Fund shall be solely determined by the City Council after considering whether the applicant demonstrates that the literal interpretation of this section will deny the applicant reasonable use of the property or where such waiver can be demonstrated to be consistent with the purpose and intent of this section.

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ARTICLE XVII. – BOARD OF ADJUSTMENT: POWERS AND DUTIES

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- (A) GRANTED BY BOARD OF ADJUSTMENT. The board of adjustment may grant a waiver from the strict application of the following provisions or sections of the Cocoa Code, providing the procedures in section 8(C) are followed and findings made:
- ~~(1) Article XIII, section 22—Landscaping Requirements;~~
 - ~~(2-1)~~ Article XIII, section 19—Stormwater Retention Facilities;
 - ~~(3-2)~~ Article XIII, section 5—Visual Screens (fences, walls, hedges);
 - ~~(4-3)~~ Article XII—Off-street Parking and Loading Regulations;
 - ~~(5) Article XI—Tree Preservation;~~
 - ~~(6-4)~~ Chapter 18, article IV, Division 2. Standards and Specifications, section 18-120(D) Concrete Curb and Gutter;
 - ~~(7-5)~~ Chapter 3, Advertising and Signs;
 - ~~(8-6)~~ Article XIII, section 4—Access Control; and
 - ~~(9-7)~~ Article XIII, section 15—Vehicular Use Areas.

Section 3. Incorporation into Code. This Ordinance shall be incorporated into the City Code of the City of Cocoa and any section or paragraph, number or letter, and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and like errors may be corrected and additions, alterations, and omissions not affecting the construction or meaning of this Ordinance and the City Code may be freely made.

Section 4. Repeal of Prior Inconsistent Ordinances and Resolution. All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, word, or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 6. Effective Date. This Ordinance shall become effective immediately upon adoption by the City Council of the City of Cocoa, Florida.

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting on the _____ day of _____, 2024.

Michael C. Blake, Mayor

ATTEST:

Monica Arsenault, City Clerk

First Reading: _____
Legal Ad Published: _____
Second Reading: _____