

MEMORANDUM

Amended
Agenda Item No. 7(F)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: October 5, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to
environmental protection;
amending section 24-49.4
of the Code; modifying certain
requirements for removal of a
tree that is causing damage to
certain real property; reducing
tree replacement requirements
and creating simplified
permitting process under certain
circumstances; amending section
24-49.7; replacing requirement
that permit applicant sign the
permit to demonstrate acceptance
of the permit terms with a
provision that performing work
under a permit constitutes
acceptance of the permit terms

Ordinance No. 21-108

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Rebeca Sosa and Co-Sponsor Commissioner Jean Monestime.



Geri Bonzon-Keenan
County Attorney

GBK/smm

Memorandum



Date: October 5, 2021

To: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink, reading "Daniella Levine Cava".

Subject: Fiscal Impact Statement for Ordinance Relating to Environmental Protection Amend Sec, 24-49.4

This proposed ordinance will not require additional staffing or operational resources to implement. In addition, there may be a reduction in the contributions made to the Tree Trust Fund for planting of trees in public property.

A handwritten signature in blue ink, reading "Jimmy Morales".

Jimmy Morales
Chief Operations Officer

Memorandum



Date: October 5, 2021

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

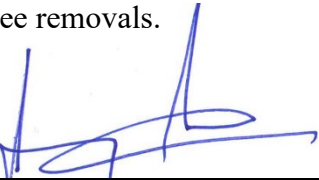
From: Daniella Levine Cava 
Mayor

Subject: Social Equity Statement for Ordinance Relating to Amending Sections 24-49.4 and 24-49.7 of the Code of Miami-Dade County Modifying Certain Requirements for Removal of Trees

The proposed ordinance amends Section 24-49.4 of the Code of Miami-Dade County (Code) and modifies certain requirements for the removal of a tree that is causing damage to real property and would, under certain circumstances, simplify the permitting process and reduce the required tree replacement requirements if the County’s Division of Environmental Resources Management (DERM) determines that a tree located in the right-of-way is damaging a single-family residential property.

Furthermore, this ordinance will streamline the tree permitting process by amending Section 24-49.7 of the Code by removing the need for the permit applicant to sign the permit to demonstrate acceptance of the permit terms and replace with a provision that performing work under an issued permit constitutes acceptance of the conditions of the permit.

If the proposed Ordinance is adopted, this would ease the financial burden on single-family property owners who wish to remove a tree that is causing damage to a residential home or other structure but would reduce the total tree canopy currently required to be replanted for qualifying tree removals.



Jimmy Morales
Chief Operations Officer

211641



MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: October 5, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Amended
Agenda Item No. 7(F)

Please note any items checked.

- _____ "3-Day Rule" for committees applicable if raised
- _____ 6 weeks required between first reading and public hearing
- _____ 4 weeks notification to municipal officials required prior to public hearing
- _____ Decreases revenues or increases expenditures without balancing budget
- _____ Budget required
- _____ Statement of fiscal impact required
- _____ Statement of social equity required
- _____ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- _____ No committee review
- _____ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- _____ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved	_____	Mayor	Amended
Veto	_____		Agenda Item No. 7(F)
Override	_____		10-5-21

ORDINANCE NO. O-21-108

ORDINANCE RELATING TO ENVIRONMENTAL PROTECTION; AMENDING SECTION 24-49.4 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; MODIFYING CERTAIN REQUIREMENTS FOR REMOVAL OF A TREE THAT IS CAUSING DAMAGE TO CERTAIN REAL PROPERTY; REDUCING TREE REPLACEMENT REQUIREMENTS AND CREATING SIMPLIFIED PERMITTING PROCESS UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTION 24-49.7; REPLACING REQUIREMENT THAT PERMIT APPLICANT SIGN THE PERMIT TO DEMONSTRATE ACCEPTANCE OF THE PERMIT TERMS WITH A PROVISION THAT PERFORMING WORK UNDER A PERMIT CONSTITUTES ACCEPTANCE OF THE PERMIT TERMS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, when planted in the right places, trees are important natural resources that offer shade and beauty and can improve neighborhoods in Miami-Dade County; and

WHEREAS, when planted in the wrong place, however, trees can cause substantial damage to residential homes or structures and result in extraordinary expenses to property owners who may not be able to afford such costs; and

WHEREAS, if a property owner wishes to remove a tree that is damaging their home or other structure, that owner may, under certain circumstances, also incur substantial costs to comply with Miami-Dade County tree removal requirements; and

WHEREAS, this ordinance would, under certain circumstances, simplify the permitting process and reduce the required tree replacement requirements if the County's Division of Environmental Resources Management (DERM) determines that a tree located in the right-of-way is damaging a single-family residential property; and

WHEREAS, for trees located on private residential properties, section 163.045 of the Florida Statutes currently prohibits local governments from requiring a tree removal permit or the planting of a replacement tree where a property owner obtains documentation from an arborist or landscape architect that a tree “presents a danger to persons or property;” and

WHEREAS, section 163.045 would not apply to trees located in the right-of-way, which may be adjacent to residential property; and

WHEREAS, as such, if a tree in the right-of-way is causing damage to an adjacent single-family residential property, a County tree removal permit may still be required and may be costly, primarily because of the tree replacement requirements in chapter 24 of the Code of Miami-Dade County (Code); and

WHEREAS, this Board, through Resolution No. R-899-20 and other resolutions, has requested reports from the Administration about planting the right tree in the right place, about destructive trees in the right-of-way, and about other concerns regarding tree planting; and

WHEREAS, the Mayor’s March 17, 2021 report, entitled “Report Related to Creation of a Tree Replacement Program, Directive No. 201768,” addresses tree permitting relief to property owners who are already dealing with expensive repairs due to tree-related damage; and

WHEREAS, this Mayoral report stated that, for trees in the right-of-way that cause damage, this Board could create a simplified permitting process, reduce the required tree replacement requirements, or require no more than a one-to-one tree replacement; and

WHEREAS, this ordinance would streamline the County’s tree-permitting process and ease the financial burden on single-family property owners who wish to remove a tree that is causing damage to a residential home or other structure; and

WHEREAS, this ordinance would retain the current provisions related to specimen trees, which are trees with a diameter of 18 inches or greater, for which section 24-49.2(6) already provides an exemption from specimen tree replacement requirements “when preservation of the specimen tree would cause a foreseeable risk to property;” and

WHEREAS, because the simplified process provided for in this ordinance is not expected to require as much staff time to implement, because, for example, staff will not be required to make detailed calculations of tree replacement requirements, a lower permit fee for this type of tree removal permit is appropriate; and

WHEREAS, this Board wishes to simplify the tree permit process by replacing the requirement that the permit applicant sign the permit to demonstrate acceptance of the terms with a provision that performing work under a permit is deemed to demonstrate acceptance of the permit terms; and

WHEREAS, for all the above reasons, this Board wishes to simplify and reduce the costs to remove a tree in the right-of-way that is causing damage to single-family properties,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. The foregoing recitals are incorporated herein and are approved.

Section 2. Section 24-49.4 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 24-49.4. – Replacement requirements for tree removal.

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

- (1) *Tree replacement requirements.* As a condition of the issuance of a tree removal permit, the permittee shall be required to replace trees that are authorized to be removed under the provisions of this section. The number of trees and number of species of trees required for replacement shall be determined according to the procedures contained herein. When the replacement canopy area exceeds ~~[[ten thousand~~ ~~{}~~10,000~~{}]~~ square feet, replacement shall be described in a landscape replacement plan which shall meet the minimum requirements of ~~>>section<< [[Section]]~~ 24-49.4(3), and no tree removal permit shall be issued until said plan has been approved by the Department, except as provided in ~~>>section<< [[Section]]~~ 24-49.4(4).
- (a) The following are exempt from this section:
- i. All tree removal activities included in ~~>>section<< [[Section]]~~ 24-49(4).
 - ii. All tree removal permits affecting natural forest community sites which meet the specific preservation requirements of ~~>>section<< [[Section]]~~ 24-49.2(1)(1)(a) and (b).
 - iii. Trees which have been successfully relocated, pursuant to ~~>>section<< [[Section]]~~ 24-49.6.

* * *

- ~~>>(d)~~ Trees causing damage. Notwithstanding anything in this division to the contrary, where the Director or Director's designee determines that a tree that is located in the right-of-way and is adjacent to a single-family residential property is causing damage to a home, accessory building, pool, septic tank, or other structure on the adjacent single-family property, then the following shall apply:
- i. The tree replacement requirements for removal of said tree shall be no more than one-for-one.

- ii. Replacement trees shall not be subject to any requirements regarding minimum height at planting or canopy replacement.
- iii. Palm trees shall not be used to satisfy replacement requirements.
- iv. No contribution to the Tree Trust Fund may be required.
- v. The Department may charge only such fee as may be necessary to recover the Department's actual costs in administering this streamlined process, and the permit fee shall be \$100.00 or less. The fee shall be established by implementing order approved by the Board of County Commissioners.<<

* * *

Section 3. Section 24-49.7 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 24-49.7. – Permit issuance, confirmation of natural forest community maps, existing permits, approvals and consent agreements.

* * *

- (2) All permits shall clearly specify all conditions, limitations>>₁<< and restrictions required by the Department. ~~[[The permit applicant shall acknowledge that the permit applicant fully understands and agrees]]~~ >>By performing work under a permit, the permit applicant shall be deemed to have fully understood and agreed<< to comply with all of said conditions, limitations>>₁<< or restrictions ~~[[by signing the permit prior to its issuance]]~~.

* * *

Section 4. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 5. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 6. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

October 5, 2021

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Abbie Schwaderer-Raurell
Dennis A. Kerbel

Prime Sponsor: Commissioner Rebeca Sosa
Co-Sponsor: Commissioner Jean Monestime