



Tree Protection

Priority Statement:

The Florida League of Cities SUPPORTS legislation to close loopholes and create standards in current law exemptions from municipal tree ordinances that have caused litigation and abuses, including the clear-cutting of land pre-development and the removal of healthy trees that present little, if any, risk to persons or structures. Current law should be amended to apply only to developed single-family residential property, identify industry-appropriate standards for assessing tree risk and identify necessary documentation.

Background:

Local government tree ordinances ensure maintenance of healthy trees and canopies that are beneficial for habitat, climate adaptation and mitigation, nutrient uptake and filtration, stormwater management, open space, quality of life and community character.

In 2019, in the wake of several hurricanes that caused extensive vegetation damage, the Legislature passed a bill intended to provide residential homeowners flexibility to quickly address immediate hazards to their homes caused by storm-damaged trees. The bill created Florida Statutes Section 163.045, which exempts homeowners from obtaining prior authorization from a local government before pruning or removing these immediate hazards. Specifically, the statute provides that a local government may not require a notice, application, approval, permit, fee or mitigation for the pruning, trimming or removal of a tree on residential property, if the property owner obtains documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect that the tree presents a danger to persons or property.

Key terms in this new statute are vague and undefined, which has led to conflicts and litigation since it became law.

- “Danger” is not a term used or commonly understood by industry professionals (arborists and landscape architects)
- “Residential property” is vague. Some claim the term applies to vacant or undeveloped land that is zoned for residential use as well as commercial property
- “Documentation” is vague and does not clearly require a physical inspection by the professional in accordance with any professionally recognized standards.

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While repealing the statute is unlikely, property owners, arborists, landscape architects and local governments would benefit by clarifying ambiguities in the statute that have caused conflicts. The League worked with the Florida Society of Landscape Architects and the Florida Chapter of the International Society of Arboriculture on specific recommendations for clarification. SB 916 (Brodeur), which was filed for the 2021 Legislative Session but did not pass, represents the work product of these organizations. The League will work with these organizations again in the 2022 Session to pass similar legislation.