

ORDINANCE 2021-13

AN ORDINANCE OF THE CITY OF OLDSMAR, FLORIDA, AMENDING CHAPTER 26 – ENVIRONMENT OF THE CODE OF ORDINANCES TO REPLACE THE TERM “PARKS AND RECREATION” WITH “LEISURE SERVICES;” CORRECT A TYPOGRAPHICAL ERROR IN SECTION 26-37; ADD PROHIBITION FOR BURNING WASTE; CHANGE TITLE OF SECTION 26-107 FOR CLARITY; ADD RESTRICTIONS AND GUIDELINES FOR PERMITTED OPEN BURNING; PROVIDE THAT CITY MANAGER OR DESIGNEE SHALL ISSUE A WRITTEN PERMIT FOR OPEN BURNING; PROVIDE THAT CITY MANAGER OR DESIGNEE SHALL OVERSEE BOTH STREET TREES AND PARK TREES; ADD MEDIANS TO THE LIST OF DUTIES AND RESPONSIBILITIES; PROVIDE THAT CITY MANAGER PROVIDE PERMISSION FOR PLANTING OF TREES AND UPDATE THE LIST OF TREES TO BE PLANTED; CHANGE 10 FEET TO 15 FEET FOR DISTANCE OF STREET TREES TO BE PLANTED FROM ANY HYDRANT; PROVIDE CITY WITH RIGHT TO REQUEST REMOVAL OF TREES WITHIN SPECIFIED LIMITS; PROVIDE CITY MANAGER TO DETERMINE NECESSITY OF TREE TOPPING BASED ON UNUSUAL CIRCUMSTANCES; CHANGE THE WORDS “STREET LIGHT” TO “STREETLIGHT” IN SECTION 26-12; AMEND THE LIST OF TREES THAT ARE EXCEPTIONS; ADD PROVISION FOR RECOGNIZING ENFORCEMENT AUTHORITY; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the City Council appointed an Ordinance Review Committee (“ORC”) to review the Code of Ordinances for legality or obsolescence; and

WHEREAS, the ORC completed its work and presented its recommendations to the City Council; and

WHEREAS, the recommendations of the ORC have been found meritorious by the City Council; and

WHEREAS, the City Council has received input from the public at two public hearings.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OLDSMAR, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED:

Section 1. That the term “Parks and Recreation” shall be replaced with “Leisure Services” in Chapter 26 (Environment) of the Code of Ordinances of the City of Oldsmar.

Section 2. That Section 26-37 of Chapter 26 (Environment) of the Code of Ordinances of the City of Oldsmar is hereby amended to read as follows:

Sec. 26-37. - Use of vehicles.

The use of any dragline, bulldozer, truck, automobile, motorcycle, or other vehicle, engine, stationary or moving instrument, device, or thing so out of repair, so loaded, or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise, other than between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday and between 8:00 a.m. and 6:00 p.m. on Saturdays, except pursuant to a written permit from the city manager authorizing such use in cases of urgent necessity in the interest of public welfare, is prohibited.

Section 3. That Section 26-104(c) is added to Chapter 26 (Environment) of the Code of Ordinances of the City of Oldsmar and shall read as follows:

- (c) The burning of household rubbish, trash, combustible waste material, furniture or furnishings, yard waste, construction or storm debris is prohibited.

Section 4. That the title (only) of Section 26-107 of Chapter 26 (Environment) of the Code of Ordinances of the City of Oldsmar is hereby amended to read as follows:

Sec. 26-107. –Cold or frost protection

Section 5. That Section 26-110 of Chapter 26 (Environment) of the Code of Ordinances of the City of Oldsmar is hereby amended to read as follows:

Sec. 26-110. – Permitted open burning, recreational, ceremonial, flaring of waste gas and burns for firefighter training.

- (a) A campfire or other fire will be allowed that is used solely for recreational purposes, for ceremonial occasions, for outdoor noncommercial preparation of food, or on cold days for warming of outdoor workers, as long as excessive visible emissions are not emitted.
- (b) Recreational fires shall not be located within 15 feet of a structure or combustible material unless contained in an approved manner. Conditions that could cause a fire to spread to within 15 feet of a structure shall be eliminated prior to ignition.
- (c) All recreational fires are limited to using clean burning charcoal, coal, manufactured fire logs or untreated dry wood as fuels.
- (d) Open containers, fireplaces, or designated fire rings shall not exceed 3 feet in diameter or 2 feet in height.

- (e) Open recreational and cooking fires shall be constantly attended by a competent person until such fire is extinguished. This person shall have a garden hose connected to the water supply or other fire extinguishing equipment readily available for use.
- (f) Open burning for the flaring of waste gases is allowed for reasons of safety, as long as excessive visible emissions are not emitted.
- (g) Open burning is allowed for the instruction and training of organized firefighters or industrial employees under the supervision of the city's fire official.

Section 6. That Sections 26-111(a),(c) and (d) of Chapter 26 (Environment) of the Code of Ordinances of the City of Oldsmar are hereby amended to read as follows:

- (a) The applicant shall apply to the fire chief, or his/her authorized representative, for permission to burn.
- (c) The city manager or his/her designee, if permission to burn is granted, shall issue a written permit which shall be kept at the burn site by the applicant and shall be presented upon demand by law enforcement or fire personnel.
- (d) The permit may be revoked for failure to comply with the provisions of this section, or, if so determined by the fire chief or his/her authorized representative, the open burn is creating a public nuisance due to smoke, flying ash, air traffic or road traffic hazard.

Section 7. That Section 26-120 of Chapter 26 (Environment) of the Code of Ordinances of the City of Oldsmar is hereby amended to read as follows:

Sec. 26-120. - Creation and establishment of overseer of public trees.

The city manager or his/her designee is hereby designated as the overseer of both street trees and park trees lying within the jurisdictional limits of the city. For the purposes of this article, street trees are herein defined as trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the city. For the purposes of this article, the definition of park trees is herein defined as trees, shrubs, bushes and all other woody vegetation in public parks.

Section 8. That Section 26-121 of Chapter 26 (Environment) of the Code of Ordinances of the City of Oldsmar is hereby amended to read as follows:

Sec. 26-121. - Duties and responsibilities of the leisure services department.

It shall be the responsibility of the leisure services department to study, investigate, counsel and develop and update annually, and administer a plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs in parks, along streets, medians and in all other public areas. Such plan will be presented annually to the city council and, upon their acceptance and approval, shall constitute the official comprehensive tree plan of the city.

Section 9. That Section 26-122 of Chapter 26 (Environment) of the Code of Ordinances of the City of Oldsmar is hereby amended to read as follows:

Sec. 26-122. - Street trees to be planted.

The following list constitutes the official street tree species for the city. No species other than those included in this list may be planted as street trees without written permission of the city manager or his/her designee.

Small Trees	Medium Trees	Large Trees
Dahoon Holly	American Holly	Bald Cypress
Crape Myrtle	Cabbage Palm	Winged Elm
Fringe Tree	Redbud	Hackberry
Chikasaw Plumb	Floss-Silk	Red Maple
Bottlebrush	American Holly	Laurel Oak
Pindo Palm	Loblolly Bay	Live Oak
Cherry Laurel	Pumpkin Ash	Washington Palm
Myrtle Oak	East Palatka Holly	Sycamore
Sea Grape	Wax Myrtle	Green Ash
Loquat	Cherry Laurel	Date Palm
Yaupon Holly	Chapmans Oak	Shumard Oak
Wax Myrtle	Dahoon Holly	Magnolia
	Florida Elm	Queen Palm
	Loblolly Bay	Loblolly Pine
	Podocarpus	Long Leaf Pine
	Persimmon	Mockernut Hickory
	Southern Red Cedar	Pecan
		Pignut Hickory
		Pond Cypress
		Red Bay
		Sand Pine

Section 10. That Section 26-125 of Chapter 26 (Environment) of the Code of Ordinances of the City of Oldsmar is hereby amended to read as follows:

Sec. 26-125. - Distance from street corners and fire hydrants.

No street tree shall be planted closer than 20 feet of any street corner, measured from the point of the nearest intersecting curbs or curb lines. No street tree shall be planted closer than fifteen feet from any fire hydrant. The city shall have the right to request removal within this limit.

Section 11. That Section 26-126 of Chapter 26 (Environment) of the Code of Ordinances of the City of Oldsmar is hereby amended to read as follows:

Sec. 26-126. - Public tree care.

The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry of such public grounds. The leisure services department may remove or cause to be removed, any tree or part thereof which is an unsafe condition or by reason of its nature is injurious to sewers, electric lines, gas lines, water lines or other public improvements, or is infected with any injurious fungus, insect or pest.

Section 12. That Section 26-127 of Chapter 26 (Environment) of the Code of Ordinances of the City of Oldsmar is hereby amended to read as follows:

Sec. 26-127. - Tree topping.

It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempt from this article at the determination of the city manager or his/her designee.

Section 13. That Section 26-128 of Chapter 26 (Environment) of the Code of Ordinances of the City of Oldsmar is hereby amended to read as follows:

Sec. 26-128. - Pruning, corner and height clearance.

The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with the visibility of any traffic control device or sign.

Section 14. That Section 26-129 of Chapter 26 (Environment) of the Code of Ordinances of the City of Oldsmar is hereby amended to read as follows:

Sec. 26-129. - Dead or diseased tree removal on private property.

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or diseases which constitute a potential threat to other trees within the city. The leisure services department will notify, in writing, the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the service of the notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of the removal to the owners of the property.

Section 15. That Section 26-130 of Chapter 26 (Environment) of the Code of Ordinances of the City of Oldsmar is hereby amended to read as follows:

Sec. 26-130. - Review by city council.

The city council shall have the right to review the conduct, acts and decisions of the leisure services department. Any person may appeal from any ruling or order of the leisure services department to the city council who may hear the matter and make the final decision.

Section 16. That Section 26-131 of Chapter 26 (Environment) of the Code of Ordinances of the City of Oldsmar is hereby amended to read as follows:

Sec. 26-131. - Exceptions.

Specifically exempt from the terms and provisions of this article are the following species of trees:

Australian Pine	Brazilian Pepper
Chinese Tallow	Melaleuca
Chinaberry	Woman's Tounge
Orchid Tree	Bischofia
Carrotwood	Cat's Claw Vine
Sword Fern	Guava
Oyster Plant	Java Plum
Seaside Mahoe	Queen Palm
Camphor Tree	Mimosa, Silk Tree
Bottlebrush	Chinese Privet
Trumpet Tree	Flamegold Tree

Elephant Ear	
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Section 17. That Section 26-133 (Enforcement) shall be added to Chapter 26 (Environment) of the Code of Ordinances of the City of Oldsmar and shall read as follows:

Sec. 26-133. – Enforcement

Law enforcement and the fire department having jurisdiction, either by ordinance, special act, or agreement, shall have authority to enter upon the premises where such burning is taking place and enforce this chapter. Further the fire department having jurisdiction shall have the authority to either require the extinguishment of any fire not in compliance with this chapter or which, in the opinion of the fire personnel present creates a threat to public health or safety of may extinguish the fire themselves.

The agency having jurisdiction shall have the legal authority to prohibit any or all open flames, candles, and open, recreational, and cooking fires or other sources of ignition, or establish special regulations on the use of any form of fire or smoking material where circumstances make such conditions hazardous.

Section 18. This Ordinance shall become effective immediately upon its final passage and adoption.

PASSED ON FIRST READING:

June 1, 2021.

PASSED ON SECOND READING AND ADOPTED:

June 15, 2021.

**Eric Seidel, Mayor
City of Oldsmar**

ATTEST:

**Ann Nixon, City Clerk, MMC
City of Oldsmar**

APPROVED AS TO FORM:

Thomas J. Trask, B.C.S.
City Attorney, City of Oldsmar