LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)

LANDSCAPE SUB-COMMITTEE

MARCH 21, 2018 AGENDA
2300 NORTH JOG ROAD, CONFERENCE ROOM VC-2E-12 – 2ND FLOOR
9:00 AM – 10:30 AM

A. CALL TO ORDER

1. INTERESTED PARTIES AND STAFF INTRODUCTIONS
2. ADDITIONS, SUBSTITUTIONS AND DELETIONS TO AGENDA
3. MOTION TO ADOPT AGENDA

B. **UNDERGROUND EASEMENTS IN OFF-STREET PARKING AREA (ART. 7.C.4, SUPPLEMENT 23)**

1. Identify issues related to the easement overlap, current practice and code requirements.
2. Regulation change – fire, water and cable companies.
3. Examples of applications (Mission Lakes, Kids Sanctuary, Glades and Turnpike)

C. OVERHEAD EASEMENTS IN PERIMETER BUFFERS

1. FPL concerns related to trees under overhead easements – new regulations (attachment).
2. Replacement of trees resulting from hurricane damages for existing projects.

D. INPUT AND COMMENTS

E. SUMMARY OF TODAY'S DISCUSSION

F. FUTURE MEETING TOPICS

G. ADJOURN

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EXHIBIT X

ARTICLE 7, LANDSCAPING
CHAPTER C, LANDSCAPE BUFFERS AND INTERIOR LANDSCAPE REQUIREMENTS
(Updated 2/16/18)

Part 1. ULDC Art. 7.B.5, Type 1 Waiver for Landscaping (page 13 of 52), is hereby amended as follows:

Reason for amendments: [Zoning]	
1.	Allow an Administrative Waiver process for relocation of trees in perimeter Landscape Buffer in situation where either an underground or overhead easement may pose an impact to the planting of a required canopy tree. The quantity of the required tree shall be met but allow the relocation of the tree elsewhere on the site.

Section 4 Type 1 Waiver for Landscaping

An Applicant may seek minor modifications to the requirements of this Article that are identified in Table 7.B.4.A, Type 1 Waivers for Landscaping. Any requirements that are not listed herein may be eligible to be modified through other applicable processes pursuant to Art. 2, Application Processes and Procedures. The Applicant shall demonstrate in the Justification Statement and provide supporting documents that Art. 2.C.5.E.3, Standards for Type 1 Waiver, and the applicable Criteria in the following Table have been met. **[Ord. 2007-001] [Ord. 2016-042] [Ord. 2018-002]**

A. Applicability

Type 1 Waiver for Landscaping shall not be combined with other Variance requests for the same requirements. **[Ord. 2018-002]**

....

Landscape Islands and Parking Structures		
Table 7.C.4.A, Landscape Island and Divider Median - Planting and Dimensional Requirements, Landscape Island Width	Allow the reduction of width of landscape island to 5 feet excluding curbs.	• For infill sites with less than 25 parking spaces.
Table 7.C.4.A, Landscape Island and Divider Median - Planting and Dimensional Requirements, Divider Median Shrub Planting	Allow relocation of shrubs from divider medians to other areas of the site.	• For industrial developments that do not have significant public visitation and the nature of the use does not benefit from interior plantings in parking areas.
Art. 7.C.4.A.1, Landscape Island Maximum Spacing	Allow to increase the number of spaces or distance to provide larger interior islands.	• To allow existing vegetation to be preserved or existing vegetation to be relocated within parking areas.
Art. 7.C.4.F, Parking Structures	Allow perimeter planter requirement to be altered if the planters are in conflict with the architectural design of the parking structure.	• The Applicant is required to submit architectural elevations of the parking structure for Staff review and evaluation. • The required planting for the planters shall be relocated to other areas of the same property where the parking structure is located.
Art. 7.C.5.A.1, Underground or Overhead Easement - Relocation of Trees	Allow required trees to be relocated on the same site.	• There is no reduction in the total quantity of the required trees; • A maximum of ten percent of the required trees within the same buffer may be relocated; and The Applicant shall identify on the Alternative Landscape Plan the new location of the tree(s) and whether root barrier will be utilized for the tree.
Art. 7.C.5.B.3, Easements in Off-Street Parking, Existing Utilities	Allow existing easements to overlap the landscape islands	• The Applicant shall provide documentation from the Utility easement holder that the easement(s) are recorded, and are not subject to a change in the location; • The Applicant may utilize a smaller flowering tree or a palm to satisfy the tree requirement. If the minimum separation between the tree and the utilities cannot be met, the required tree in the island may be relocated within the same site. • The minimum percentage of canopy tree pursuant to Table 7.C.4.A, may reduce to 50 percent and palms may increase up to 50 percent, and. • The Applicant shall identify on the Alternative Landscape Plan the new location of the tree(s) and whether root barrier will be utilized for the tree.
[Ord. 2005-002] [Ord. 2012-027] [Ord. 2014-025] [Ord. 2015-031] [2016-016] [Ord. 2016-042] [Ord. 2017-007] [Ord. 2018-002]		

Notes:
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CHAPTER C, LANDSCAPE BUFFERS AND INTERIOR LANDSCAPE REQUIREMENTS
(Updated 2/16/18)

Part 2. ULDC Art. 7.C.5, Easements in Landscape Buffers (page 30 of 52), is hereby amended as follows:

Reason for amendments: [Zoning]	
1.	Identify the two types of situations where either underground or overhead easements overlap a required landscape buffer. All proposed and existing easements must be identified on the Zoning Plans (site or subdivision). This is consistent with the requirements under the Zoning Technical Manual.
2.	Relocation of required trees from the buffer to a different area of the subject property must be subject to the review and approval by the Development Review Officer through a Type 1 Waiver for Landscaping.

CHAPTER C LANDSCAPE BUFFER AND INTERIOR LANDSCAPING REQUIREMENTS

Section 5. Easements in Landscape Buffers and Off-Street Parking Areas

A. Easements in Landscape Buffers

1. Underground Utilities

Easements may overlap a required landscape buffer by a maximum of five feet, provided there remains a minimum of five clear feet for planting. If a wall with a continuous footer is used, a minimum of ten clear feet for planting is required. The landscape buffer may be traversed by easements or access ways as necessary to comply with the standards of this Article, and Art. 11, Subdivision, Platting, and Required Improvements, and other PBC codes. Easements shall be identified prior to the preparation of Zoning Plans. ~~site or subdivision plans and any proposed overlap shall be approved by the DRO or Zoning Division~~. **[Ord. 2018-002]**

~~A.~~2. Overhead Utilities

Trees planted within any easement with overhead utilities shall comply with the placement and maintenance requirements in the latest edition of FP&L's publication "Plant the Right Tree in the Right Place," available from the Zoning Division, and take into consideration the mature height and spread of the species beneath or adjacent to overhead utilities. Where overhead utilities exist, trees shall be maintained so that the mature tree canopy is a minimum of ten feet from overhead lines.

3. Type 1 Waiver for Landscaping

Plants required in the easement area may be planted elsewhere on the same site~~, in the vicinity of the required location~~ subject to a Type 1 Waiver for Landscaping. ~~In order to maintain tree and plant spacing when a landscape buffer is traversed by a utility easement, a larger overlap may be allowed with the written approval of the relevant utility service company. Where a utility easement crosses a R-O-W Buffer, plant material spacing may be adjusted, provided there is no reduction in the amount of required plant material.~~ **[Ord. 2018-002]**

B. Easements in Off-Street Parking Areas

1. Underground Utilities

Utility easements may encroach landscape islands provided there is a sufficient area for the growth of the required tree within the same island. The width and length of the island shall be increased by the minimum amount necessary to meet the separation requirements of the utility providers, indicated below.

a. Water Utilities Separation

A minimum of ten feet shall be provided, by measuring from the outer edge of the pipes to the edge of the pit where the tree is to be planted. The Department of Water Utilities (WUD) may allow the separation distance be reduced to seven feet if tree root barriers are installed. See Figure 7.C.5, Water Utility Separation.

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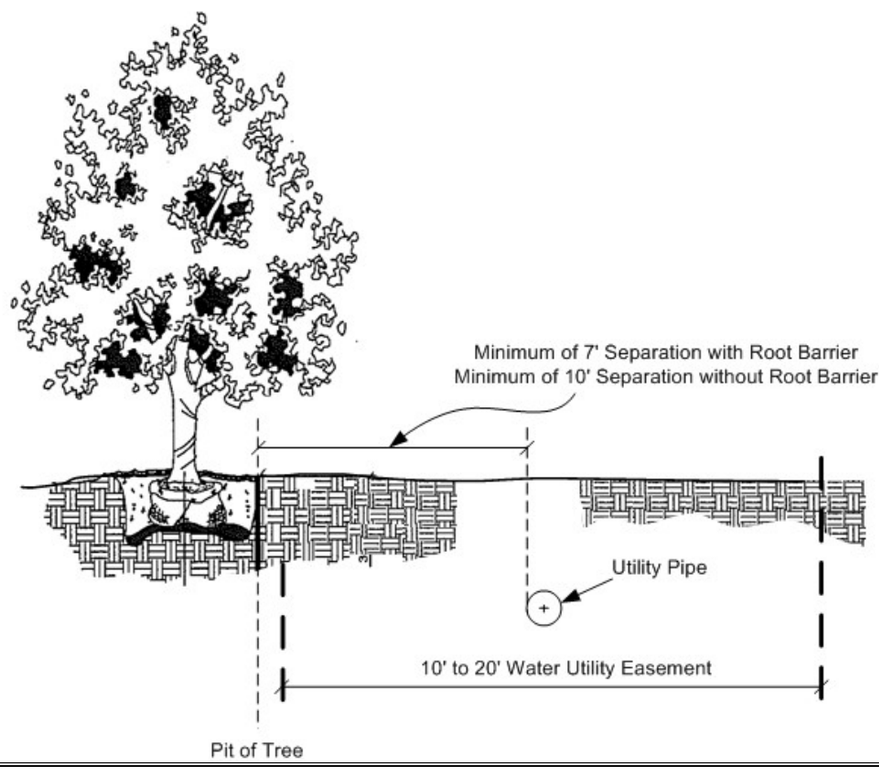
Figure 7.C.5.B – Water Utility Separation



[Ord. 2018-0xx]

b. Fire Rescue Utilities Separation

A minimum of a five feet shall be provided, measuring from the outer edge of the Fire hydrant to the pit where the tree is to be planted. In case where the Fire hydrant easement is adjacent to the WUD easement, the two easements shall not be overlapping and the required separation of the tree to the hydrant and the pipes shall be provided. See Figure 7.C.5.B, Fire Rescue Utilities Separation.

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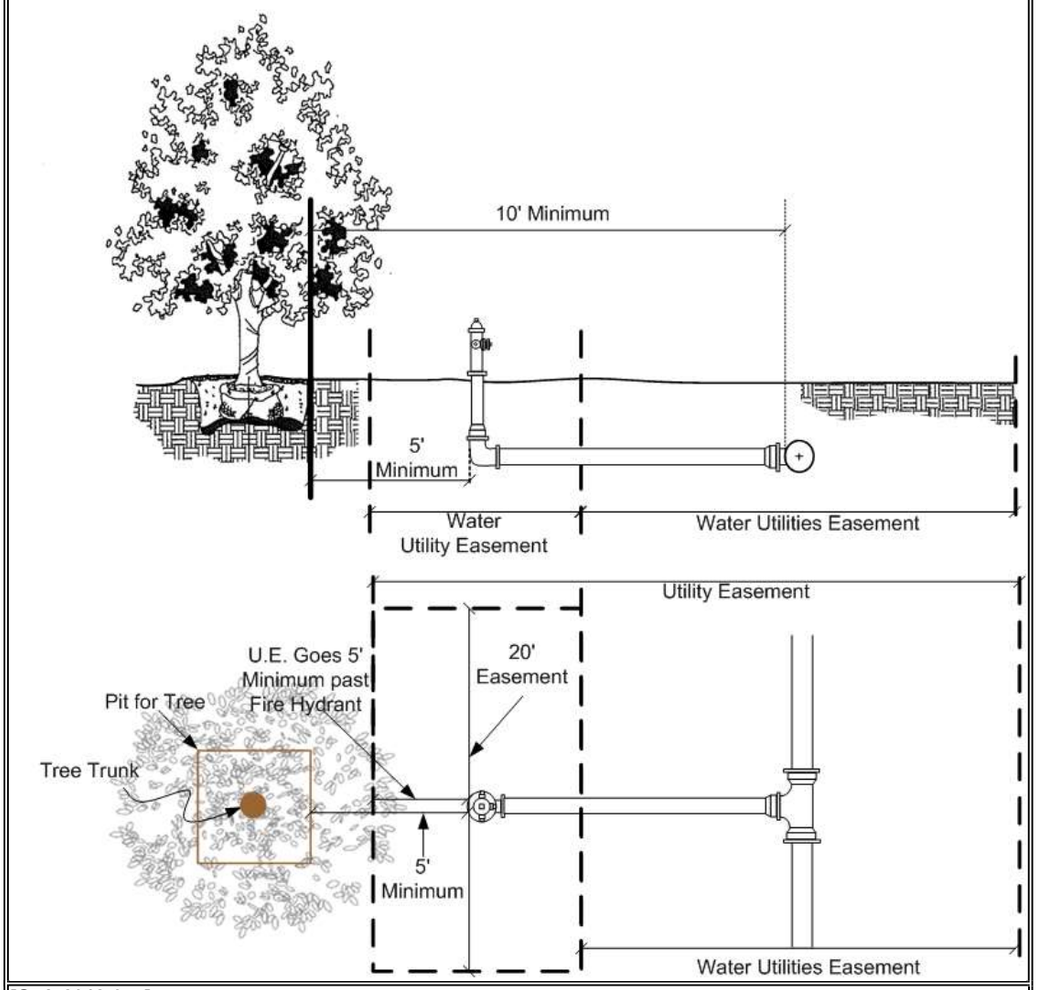
Figure 7.C.5.B – Fire Rescue Utilities Separation



[Ord. 2018-0xx]

1. Existing Utilities

For sites where existing underground utilities are encroaching into landscape islands. The relocation of the required tree may be requested subject to a Type 1 Waiver for Landscaping.

~~B~~C. Detention or Retention Areas, Swales, and Drainage Easements

Detention or retention areas, drainage easements, and sloped, directional swales greater than one foot below finished grade, may overlap required landscape buffers provided a minimum of five feet remains for planting. **[Ord. 2006-004] [Ord. 2016-042] [Ord. 2018-002]**

U:\Zoning\CODEREV\Research - Central\Art. 7 - Landscape\2018\Drafts\Easements in Landscape Buffers and Interior Areas 3-14-18.docx - Central\Art. 7 - Landscape\2018\Drafts\Easements in Landscape Buffers and Interior Areas 2-26-18.docx

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Right Tree, Right Place

Caring for trees and your service

CHANGING THE CURRENT®

FPL®

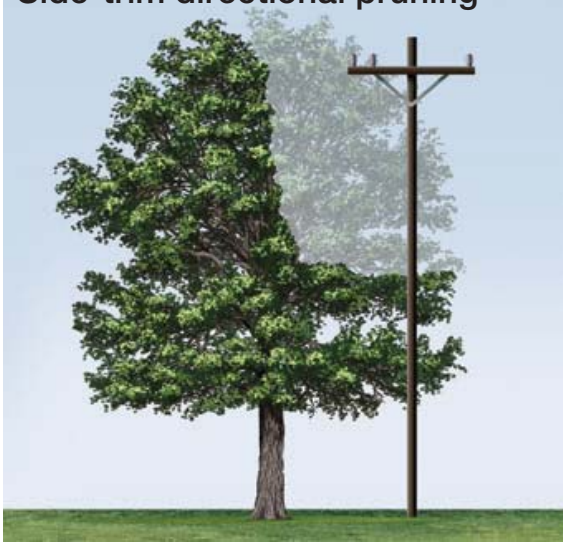
Line clearing helps prevent outages

FPL is committed to delivering safe, reliable electric service to our customers. Trees, especially palm trees, can interfere with power lines and are one of the most common causes of power outages and flickers.

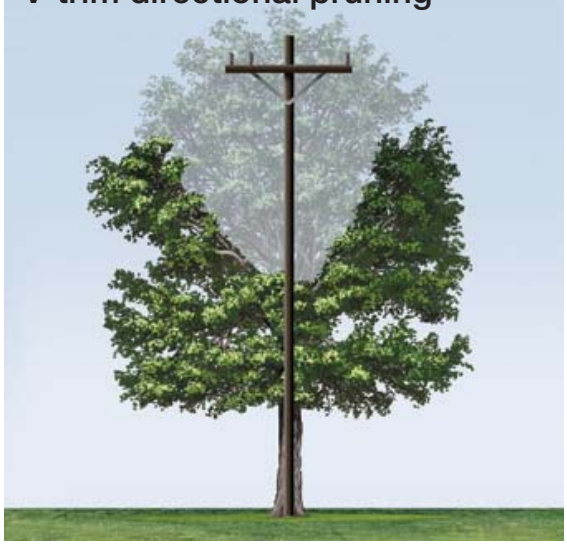
FPL's preventive maintenance program clears tree limbs and branches that can potentially cause safety issues and power outages. FPL **uses "directional pruning" to protect the health of your trees while helping them grow away from power lines.** Directional pruning is a professional technique of pruning trees away from power lines by removing entire branches and limbs down to the main trunk of the tree where trees normally shed them. This method directs future tree growth away from the power lines and reduces re-growth.

Directional pruning is an industry best practice with guidelines supported by the International Society of Arboriculture, American National Standard Institute and university research.

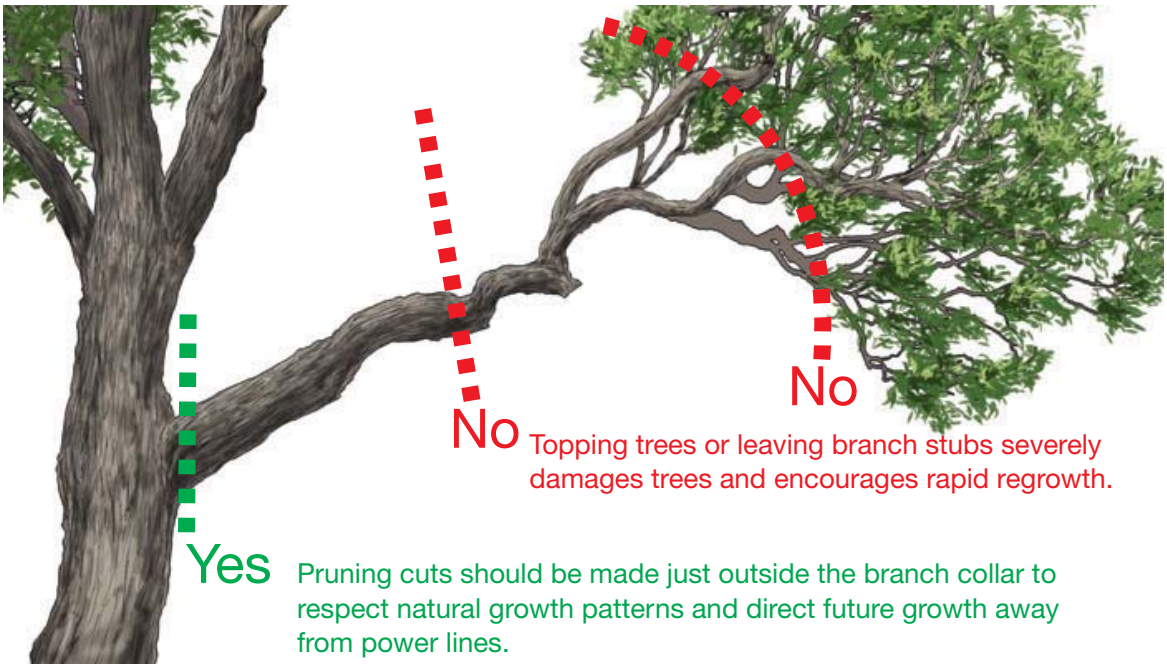
Side-trim directional pruning



V-trim directional pruning



Proper pruning for tree health



Plant the Right Tree in the Right Place

By selecting the right tree and planting it in the right place, you can help reduce power outages and flickers for you and your neighbors.

Trees come in all shapes and sizes, and often change dramatically over their lifetimes. **Before selecting a tree, make sure you know how tall, wide and deep it will be at maturity.** For a list of recommended trees for your area, please visit FPL.com/trees.

Where you plant your tree is just as important as what type of tree you plant. Blocking an unsightly view or creating some shade may be a priority, but you must also think about your tree's impact on existing utility lines as it grows taller and wider. At maturity, will its canopy reach the overhead lines? Keep in mind that the larger the power pole or structure, the farther back you should plant your tree. Planting trees that will interfere with power lines violates Florida law and can jeopardize the reliability of your electric service. Taking the time to consider location now can prevent avoidable power disturbances for years to come.

It's never too late! To correct landscaping missteps of the past, try relocating or removing small trees to prevent future service issues. **No amount of trimming can substitute for smart landscaping and responsible maintenance by property owners.**

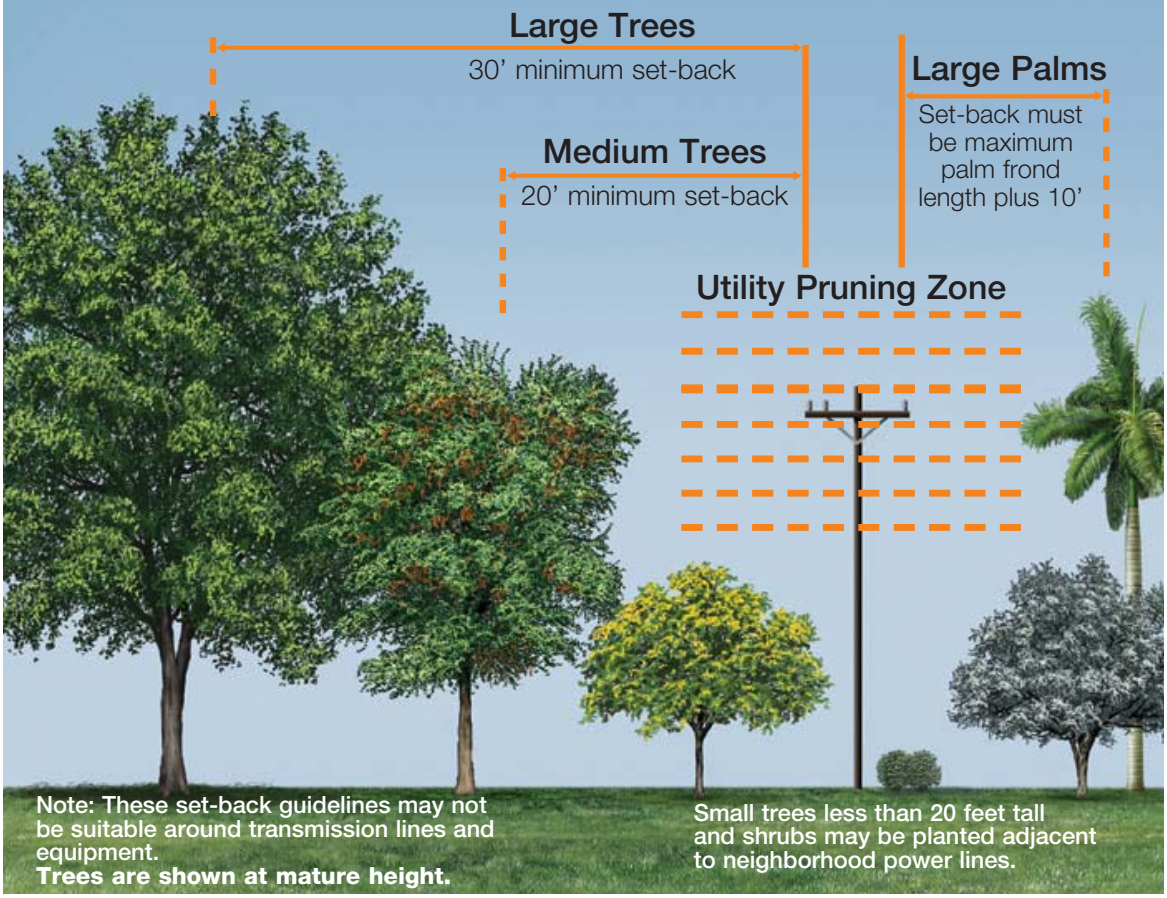
Trees in your neighborhood

When landscaping your home or business, remember to:

- Plant only small trees and shrubs in areas adjacent to power lines.
- Keep medium and large trees, including palms, at a safe distance from power lines.
- Keep transformers clear of vegetation at all times.

Room to grow

For the health of your trees and the reliability of your electric service, give your trees ample room to grow without interfering with power lines or equipment. FPL recommends the following set-back distances based on your tree's mature height.



Note: These set-back guidelines may not be suitable around transmission lines and equipment.
Trees are shown at mature height.

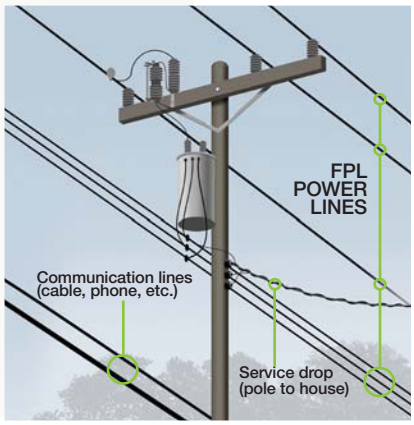
Small trees less than 20 feet tall and shrubs may be planted adjacent to neighborhood power lines.

Smart landscaping starts with a plan

FPL is working hard to deliver worry-free energy, now and in the future, and we need your help. Use this landscape planning guide to help ensure reliable electric service for you and your neighbors.

1 Note the location of power lines

Power lines are usually located at the top of the utility pole, farthest from the ground. Cable television and telephone lines run closer to the ground, below power lines. When planting your trees, be sure to give them ample room to grow without interfering with power lines.

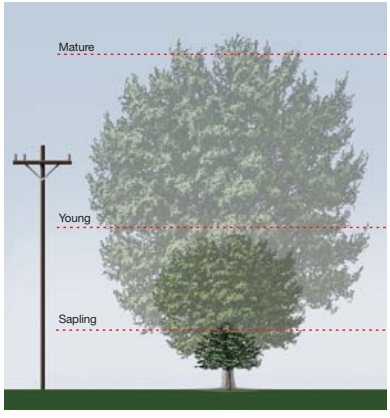


2 Find the right tree, choose the right spot

Before selecting a tree, consider how tall, wide and deep it will be at maturity. Then carefully consider the location and appropriate set-back distances to prevent avoidable power disturbances for years to come.

3 Shading

Landscaping to shade your home from the sun is a low-cost, effective way to reduce your cooling costs.



4 Keep transformers clear

Keep the transformer cabinet clear at all times to allow for maintenance and repairs. Maintain a "clear zone" of 8 feet in the front and 3 feet in the back and on both sides.

Stay safe

When planting, what you can't see can hurt you, so before you reach for a shovel, reach for the phone. One easy call to 811 starts the process of getting underground utility lines marked. Make that call at least two full business days before you start digging; it's fast, free and required by law.

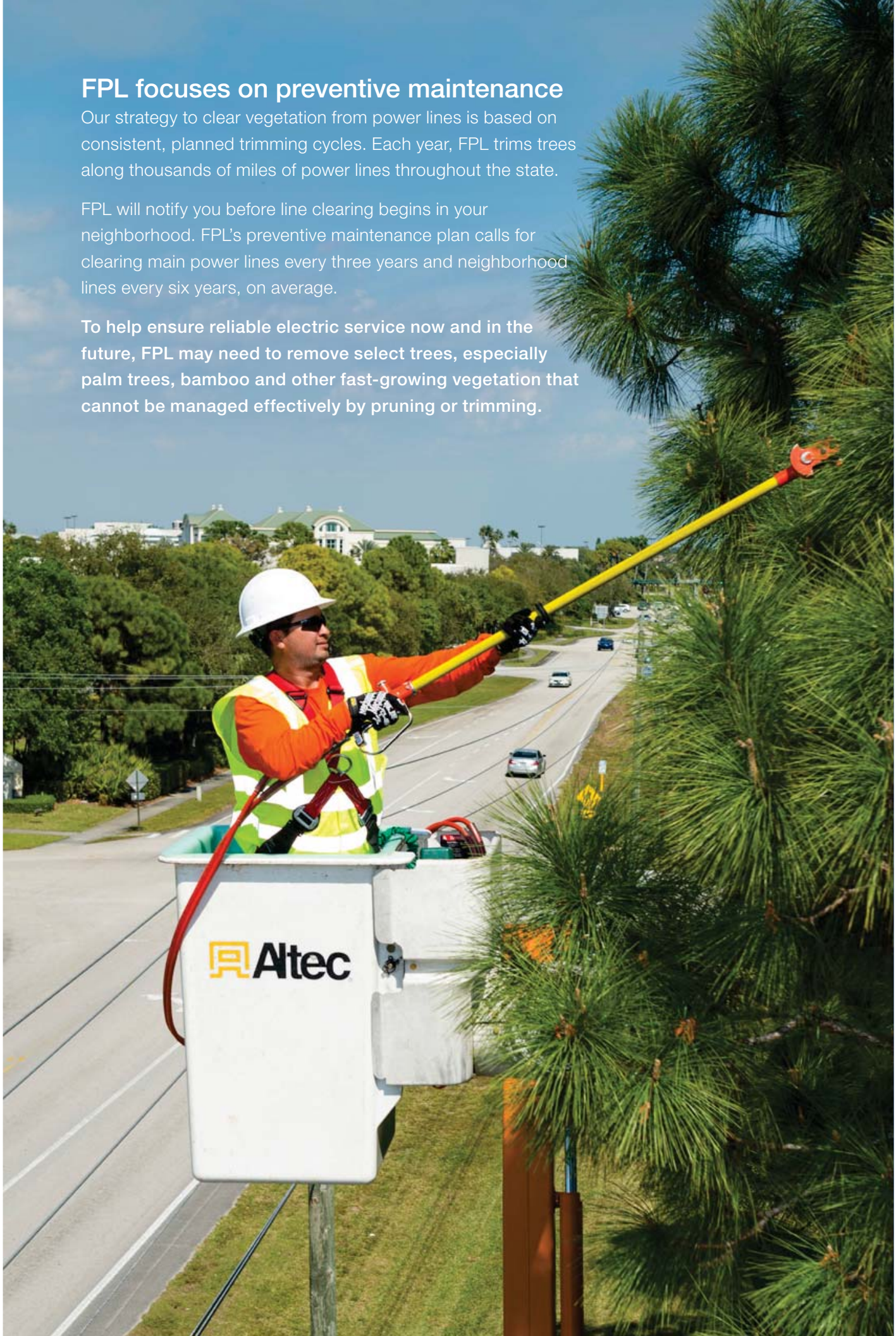
When doing yard work, always look up and note the location of power lines. Never attempt to trim any vegetation growing near power lines. When hiring landscapers or yard workers to trim your trees, remember to ask if they are licensed, insured and qualified to trim vegetation around power lines.

FPL focuses on preventive maintenance

Our strategy to clear vegetation from power lines is based on consistent, planned trimming cycles. Each year, FPL trims trees along thousands of miles of power lines throughout the state.

FPL will notify you before line clearing begins in your neighborhood. FPL's preventive maintenance plan calls for clearing main power lines every three years and neighborhood lines every six years, on average.

To help ensure reliable electric service now and in the future, FPL may need to remove select trees, especially palm trees, bamboo and other fast-growing vegetation that cannot be managed effectively by pruning or trimming.



Your safety is important

If you decide to work outside, look up and note the location of power lines before you begin. Careful avoidance of power lines is extremely important during yard work, especially when using tools, ladders, poles or pruning saws. Be sure that ladders or scaffolds are far enough away so that you — and the ends of the tools you're using — don't come within 10 feet of power lines.

Never attempt to trim any vegetation growing near power lines. Only specially trained line-clearing professionals should work around power lines.

Call before you dig. Florida law requires that you call **Sunshine State One Call at 811** to locate and mark buried power lines and other utilities before you dig. Call 811 at least two business days before you begin work to avoid unintentionally hitting underground utility lines. This free service helps keep everyone safe.

FPL.com/trees
1-800-226-3545

TREE LINE USA.

Arbor Day Foundation

Florida Power & Light Company has been named a Tree Line USA utility by The National Arbor Day Foundation.

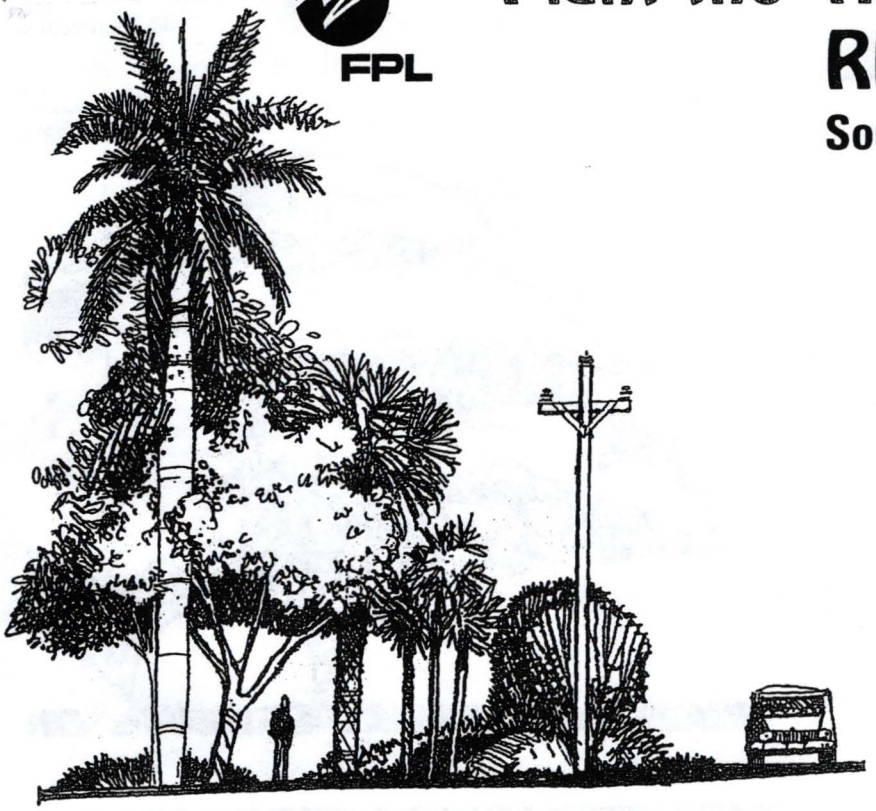
ISA FLORIDA CHAPTER

TREES

40672

"Plant the RIGHT TREE in the RIGHT PLACE"

South Florida



Plan Before You Plant

Choose suitable trees and palms for planting around your home, near powerlines, for courtyards, patios, lawns and streetscapes.

PROPER TREE SELECTION

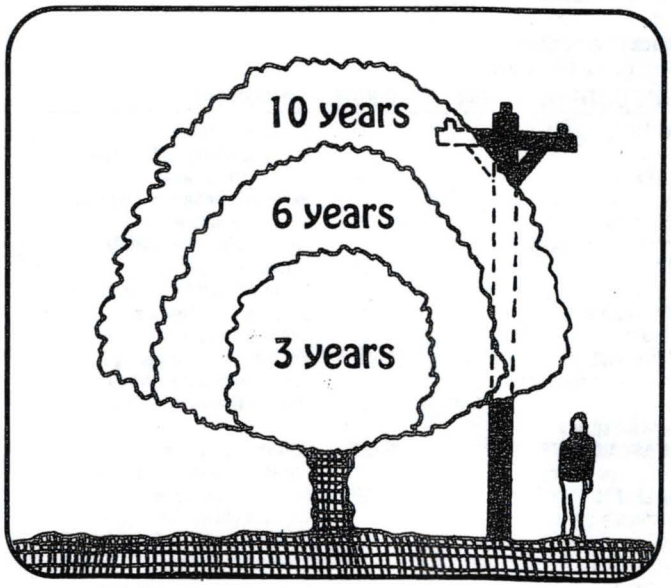
Often, we take our utility service for granted because it has become a part of our daily lives. To enjoy the convenience of reliable electrical service, distribution systems are required to bring electricity to our homes.

The location of these utility lines should play a major role in your tree and planting site selection. The ultimate, mature height and width of a tree to be planted should not exceed the available overhead growing space. It's important to plant the right tree in the right place. Proper tree selection will help to ensure trouble-free electrical service to your home for years to come.

The selection of trees to plant requires careful consideration. Trees planted in the wrong place can cause serious problems such as clogged sewers, cracked sidewalks, and power service interruptions. Planting the right tree in the right place can reduce maintenance expenses for homeowners as well as FPL, while improving the appearance of the landscape.

Consult your tree care professional or garden center staff to help you select the right tree.

In this publication you will find a select list of trees and palms as well as recommendations for planting in relation to utility lines.



Always consider the ultimate mature size when planting.

SMALL TREES

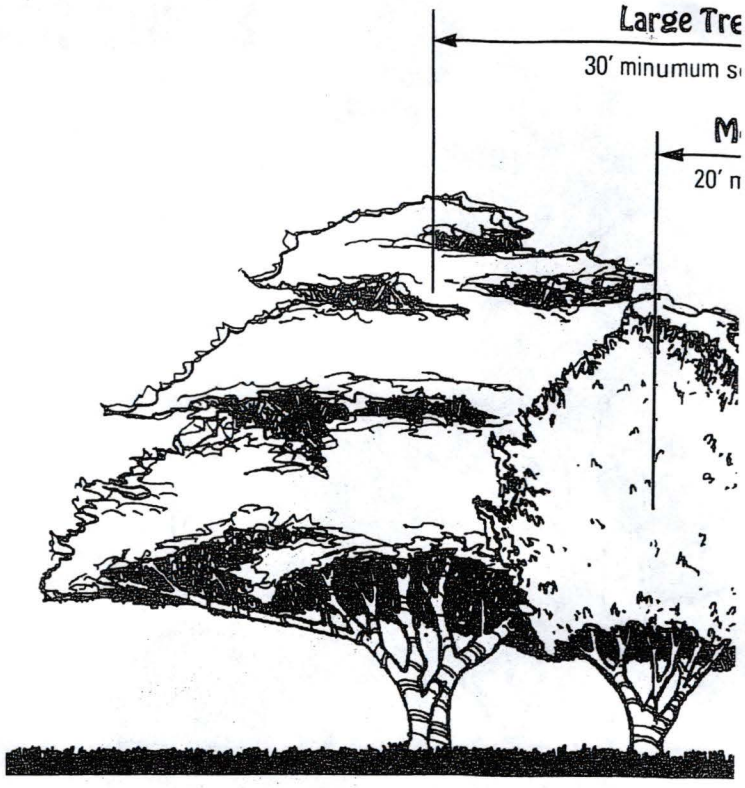
Less than 20' ht. at maturity
Can be planted adjacent to powerlines
For courtyards, patios, entryways, etc.

COMMON/BOTANICAL NAME	HEIGHT	COMMENTS
***SWEET ACACIA** Acacia farnesiana	10'- 15'	fragrant yellow flowers
DWARF POINCIANA Caesalpinia spp.	10'- 15'	yellow-orange flowers large shrub, tropical
WEEPING BOTTLEBRUSH Callistemon viminalis	15'- 20'	red, bottlebrush flowers
GLAUCUS CASSIA Cassia surattensis	15'- 20'	yellow flowers, tropical
CITRUS: LEMON, ORANGE, ETC. Citrus spp.	15'- 20'	edible fruit, white flowers all, **except Grapefruit**
***SILVER BUTTONWOOD** Conocarpus erectus var. 'sericeus'	15'- 20'	attractive gray foliage cold tolerant
WHITE GEIGER/ TEXAS OLIVE Cordia boissieri	10'- 15'	showy white flowers cold tolerant
***ORANGE GEIGER** Cordia sebestena	15'- 20'	brilliant orange flowers
LOQUAT Eriobotrya japonica	15'- 20'	edible orange fruit dark green foliage
***STOPPERS** Eugenia spp.	15'- 20'	understory trees good hedgerow screens
***LIGNUM VITAE** Guaiacum sanctum	15'- 20'	sky-blue flowers specimen tree
HIBISCUS "Standards" Hibiscus spp.	10'- 15'	red, pink, yellow, or white flowers, tropical
TREE JATROPHA Jatropha spp.	15'- 20'	crimson-red flowers, tropical
CREPE MYRTLE Lagerstroemia indica	15'- 20'	red, pink, coral, or white flowers
TREE LIGUSTRUM Ligustrum spp.	15'- 20'	small white flowers, dark green foliage
JABOTICABA Myrciaria caulifolia	15 '- 20'	edible fruit, attractive bark
CHALCAS/ ORANGE JASMINE Murraya paniculata	15'- 20'	fragrant white flowers, trained as a tree
***WAX MYRTLE** Myrica cerifera	15'- 20'	tolerates wet soils, aromatic leaves when crushed
OLEANDER "Standards" Nerium oleander	15'- 20'	pink, coral, or white flowers, very poisonous
KOPSIA Ochrosia elliptica	15'- 20'	lobster-red berries, poisonous, attractive foliage
FRANGIPANI Plumeria rubra	15' -20'	coral, yellow, or white flowers, tropical
YELLOW ELDER Tecoma stans	15'- 20'	brilliant yellow flowers tropical

MEDIUM TREES

20'-30' ht. at maturity
20' setback from powerlines
For lawns, parks, shade, etc.

COMMON/BOTANICAL NAME	HEIGHT	COMMENTS
ORCHID TREE Bauhinia spp.	20'- 30'	attractive orchid-like flowers, white, pink, purple
***PITCH APPLE** Clusia rosea	25'- 30'	handsome foliage excellent medium street tree
***PIGEON PLUM** Coccoloba diversifolia	25'- 30'	attractive native, provides food for wildlife
***SEAGRAPE** Coccoloba uvifera	20' -30'	salt tolerant native provides food for wildlife
***DAHOON HOLLY** Ilex cassine	25'- 30'	attractive red berries, tolerates wet soils
***BLACK IRONWOOD** Krugiodendron ferreum	20'- 30'	attractive slow growing native, very dense wood
SABICU Lysiloma latisiliqua	20'- 30'	slender tree w/fine foliage
MADAGASCAR OLIVE Noronhia emarginata	20'- 30'	upright, open tree w/ attractive dark green leaves
JERUSALEM THORN Parkinsonia aculeata	20'- 30'	feathery transparent tree w/small yellow flowers
ALLSPICE Pimenta dioica	15'- 30'	attractive tree w/dark green aromatic leaves
PODOCARPUS Podocarpus spp.	20'- 30'	handsome evergreen tree, yew-like appearance
YELLOW TABEBUIA/SILVER TRUMPET Tabebuia caraiba	20'- 30'	striking yellow flowers w/crooked corky trunk
PINK TABEBUIA Tabebuia heterophylla	20'- 30'	attractive pink flowers

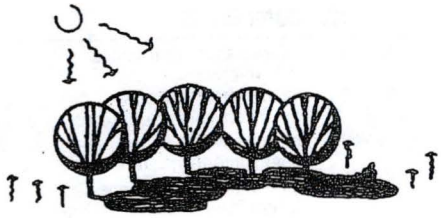


SMALL PALMS

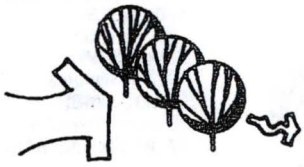
Less than 20' ht. at maturity
Can be planted adjacent to powerlines
For courtyards, patios, entryways, etc.

COMMON/BOTANICAL NAME	HEIGHT	COMMENTS
PINDO PALM Butia capitata	10'- 15'	blue-gray foliage, cold tolerant feather palm
CAT PALM Chamadorea cataractarum	5'- 10'	handsome clumping feather palm
BAMBOO PALM Chamadorea spp.	10'- 15'	partial shade, clumping feather palms
EUROPEAN FAN PALM Chamaerops humilis	5'- 10'	attractive, cold tolerant fan palm
ARECA PALM Chrysalidocarpus lutescens	15'- 20'	good hedgerow screen, clumping feather palm
***SILVER PALM** Coccothrinax argentata	15'- 20'	silver-gray foliage, attractive fan palm
BOTTLE PALM Hyophorbe lagencaulis	10'- 15'	bottle-shaped trunk, feather palm
SPINDLE PALM Hyophorbe verschaffeltii	15'- 20'	attractive thick trunk, feather palm
PYGMY DATE PALM Phoenix roebellini	15'- 20'	attractive feather palm, long spines, single or multi-trunk
MAJESTY PALM Ravenea glauca	15'- 20'	interesting thick trunk, feather palm
***NEEDLE PALM** Rhapidophylium hystrix	5'- 10'	cold tolerant, palmate, clumping palm
LADY PALM Rhapis excelsa	10'- 15'	partial shade, palmate, clumping palm
***DWARF PALMETTO** Sabal minor	10'- 15'	cold tolerant, fan palm
***SAW PALMETTO** Serenoa repens	10'- 15'	cold tolerant, green and silver varieties, fan palm
***THATCH PALM** Thrinax spp.	15'- 20'	single-stemmed fan palms, T. morrisii & T. radiata
CHRISTMAS PALM Veitchii merrillii	15'- 20'	red berries, 'LY', attractive feather palm

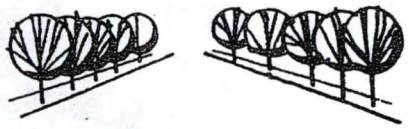
WHY PLANT? Trees and Palms



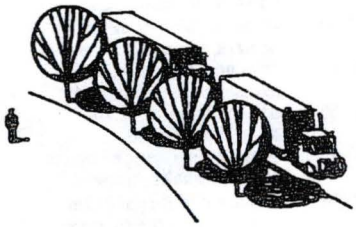
provide shade and cool the air ...



act as wind breaks ...



enhance the streetscape ...



screen objectionable views ... frame views ... soften architecture ... act as a backdrop.

WHY FPL TRIMS TREES

Not all trees are planted in "the right place." Often large trees will grow into close proximity of power lines requiring trimming away from FPL's lines.

Power line maintenance, including tree removal and trimming, benefits everyone by reducing power outages. A single tree that contacts a power line can interrupt electrical power to many people in an area. Overhanging limbs can break and fall into power lines. This is especially critical during storms or periods of high winds.

Overhead utility lines are the easiest to see and probably the ones we take most for granted. Although these lines look harmless enough, they can be dangerous.

Planting tall-growing trees under or near these lines will ultimately require pruning them away from the wires. This pruning may result in a tree having an unnatural appearance. Repeated pruning can lead to a shortened life span of the tree. Trees which must be pruned away from the power lines are under greater stress and more susceptible to insects and disease. Small, immature trees planted today can grow into problem trees in the future. Tall growing trees near overhead lines can cause service interruptions when trees contact wires. Children or adults climbing these trees can be severely injured or even killed if they come in contact with the wires. Proper selection and placement of trees in and around overhead utilities can eliminate potential public safety hazards, reduce expenses for utilities and their customers and improve the appearance of landscapes.

FPL utilizes professional tree crews trained to trim trees in a safe and technically correct manner. The National Arborists Association standards (NAA) and local tree trimming codes are used as guidelines.

Should a tree come in contact with a power line stay clear and call FPL at the number on the bottom of your bill.

NUISANCE and PROBLEM TREES

The following non-native problem trees are prohibited in some municipalities. They can be invasive, damage sidewalks, structures, or utilities, or may be extremely messy. Consult your local forester or agricultural extension agent to "Plant the Right Tree in the Right Place"

EARLEAF ACACIA	Acacia auriculiformis
AUSTRALIAN PINE	Casuarina spp.
MELALEUCA	Melaleuca quinquenervia
BRAZILIAN PEPPER	Schinus terebinthifolius
WOMAN'S TONGUE TREE	Albizzia lebbeck
NORFOLK ISLAND PINE	Araucaria heterophylla
TREE BAMBOO	Bambusa vulgaris
BISCHOFIA	Bischofia javanica
SCHEFFLERA	Brassaia actinophylla
EAR TREE	Enterolobium cyclocarpum
EUCALYPTUS	Eucalyptus spp.
NON-NATIVE FICUS	Ficus spp.
SILK OAK	Grevillea robusta
MAHOE	Hibiscus tiliaceus
CHINESE TALLOW TREE	Sapium sebiferum
JAVA PLUM	Syzygium cumini
CORK TREE	Thespesia populnea

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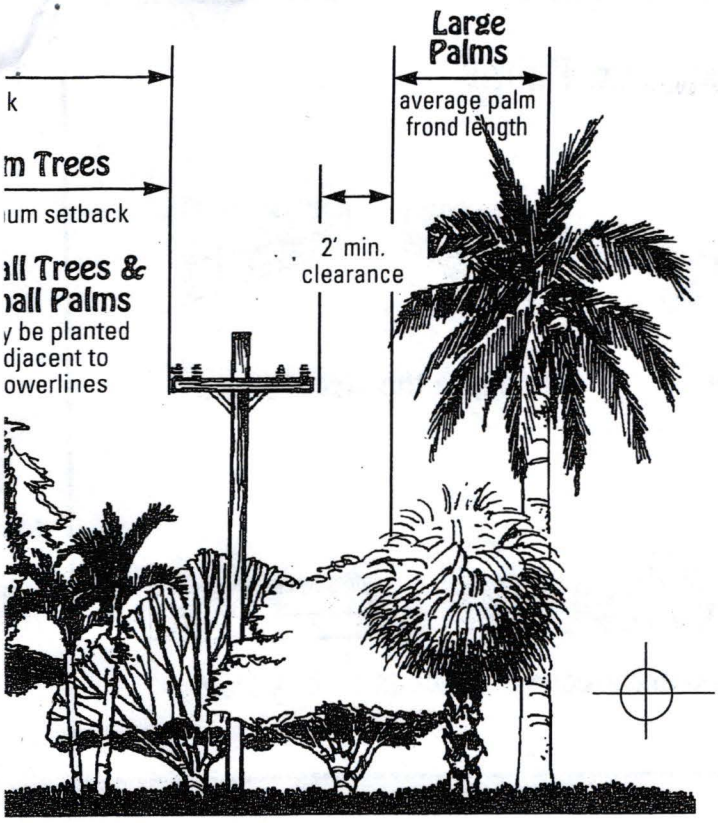

LARGE PALMS

Greater than 20' at maturity
Plant at the average frond length plus 2' for minimum clearance from powerlines.
(#') indicates average palm frond length

COMMON/BOTANICAL NAME	HEIGHT	COMMENTS
***PAUROTIS/EVERGLADES PALM** Acoelorrhaphe wrightii (5')	15'- 25'	clumping native fan palm
ALEXANDRA PALM Archontophoenix alexandrae (7')	40'- 45'	handsome feather palm
BISMARK PALM Bismarkia nobilis (7')	30'- 60'	striking blue-gray fan palm
FISHTAIL PALM Caryota mitis (8')	15'- 25'	fishtail ends on fronds, clumping palm
COCONUT PALM Cocos nucifera (15')	60'- 80'	king of palms, use "Maypan" or sim. resistant to 'LY'
HURRICANE PALM Dictyosperma album (12')	25'- 40'	handsome feather palm
BLUE LATANIA Latania loddigesii (7')	20'- 50'	attractive silver-blue fan palm
CHINESE FAN PALM Livistonia chinensis (7')	20'- 30'	weeping fronds, handsome fan palm
TRIANGLE PALM Neodypsis decaryi (10')	15'- 25'	three-sided exotic feather palm
DATE PALM Phoenix dactylifera (15')	60'- 90'	tall feather palm
CANARY ISLAND DATE PALM Phoenix canariensis (15')	35'- 50'	thick trunked feather palm
SENEGAL ISLAND DATE PALM Phoenix reclinata (10')	25'- 35'	clumping, stately, feather palm
SOLITAIRE/ ALEXANDER PALM Ptychosperma elegans (8')	15'- 25'	attractive, thin trunked feather palm
***ROYAL PALM** Roystonea regia (15')	50'- 70'	tall, majestic feather palm
***CABBAGE/ SABAL PALM** Sabal palmetto (7')	45'- 70'	state tree of Florida common fan palm
QUEEN PALM Syagrus romanzoffianum (12')	40'- 45'	attractive feather palm
WASHINGTONIA PALM Washingtonia robusta (7')	50'- 80'	handsome fan palm, reddish trunk when small
MACARTHUR PALM Ptychosperma macarthuri (8')	20'- 30'	clumping feather palm

LARGE TREES

Greater than 30' at maturity
30' setback from powerlines
For canopy and shade, lawns, parks, etc.

COMMON/BOTANICAL NAME	HEIGHT	COMMENTS
***RED MAPLE** Acer rubrum	35'- 50'	tolerates wet conditions cold tolerant
BLACK OLIVE Bucida buceras	40'- 50'	yellow-green foliage, tannin stains are a problem
***GUMBO LIMBO** Bursera simaruba	40'- 60'	attractive mature red bark, handsome shade tree
CALOPHYLLUM/ BEAUTY LEAF Calophyllum spp.	30'- 45'	handsome shiny foliage C. inophyllum & C.antillanum
GOLDEN SHOWER TREE Cassia fistula	30'- 40'	spectacular yellow flowers, tropical
PINK AND WHITE SHOWER TREE Cassia javanica	35'- 50''	attractive pastel pink flowers, tropical
FLOSS SILK TREE Chorisia speciosa	35'- 50'	attractive pink or white flowers, spines on trunk
***SATINLEAF** Chrysophylium oliviforme	30'- 40'	shimmering leaves in wind, excellent specimen tree
***GREEN BUTTONWOOD** Conocarpus erectus	30'- 50'	upright, larger than the silver buttonwood
ROYAL POINCIANA Delonix regia	25'- 40'	spectacular orange flowers. spreading habit, tropical
***STRANGLER FIG** Ficus aurea	40'- 50'	native Ficus, large shade tree, needs room to grow
***SHORTLEAF FIG** Ficus citrifolia	40'- 50'	native Ficus, large shade tree, needs room to grow
JAPANESE FERN TREE Filicium decipiens	25'- 35'	interesting shaped foliage, somewhat spreading
***LOBLOLLY BAY** Gordonia lasianthus	30'- 40'	handsome upright tree, cold tolerant
***BLOLLY** Guapira discolor	35'- 50'	nicely shaped, handsome fruits, hammock pioneer
JACARANDA Jacaranda mimosifolia	40'- 50'	attractive lavender-blue flowers, open habit
GOLDEN RAINTREE Koelreuteria elegans	30'- 50'	attractive yellow-sepia flowers, tropical
QUEEN'S CREPE MYRTLE Lagerstroemia speciosa	30'- 45'	attractive pink, lavender flower clusters, tropical
***WILD TAMARIND** Lysiloma bahamensis	40'- 50'	tiny leaves, open habit, attractive trunk & branches
***SWEETBAY MAGNOLIA** Magnolia virginiana	40'- 60'	cold and wet tolerant
MANGO Mangifera indica	40'- 60'	edible fruit, many varieties dense shade, tropical
***MASTIC TREE** Masticodendron foetisdissimum	45'- 70'	tall remnant of the hammocks upright w/ whitish bark
YELLOW POINCIANA Peltophorum pterocarpum	40'- 50'	attractive yellow flowers, spreading habit, tropical
AVOCADO Persea americana	40'- 50'	edible fruit, many varieties tropical
***REDBAY** Persea borbonia	50'- 60'	aromatic leaves, shade tree or open lawns
***SLASH PINE** Pinus elliotii var. "densa"	80'- 90'	tall with dense crown, 2-3 needles per sheath 7"-12" long
***JAMAICAN DOGWOOD** Piscidia piscipula	35'- 50'	attractive lavender flowers
***LAUREL OAK** Quercus laurifolia	60'- 90'	tall, upright, short-lived cold tolerant native
***LIVE OAK** Quercus virginiana	50'- 60'	spreading, grand shade tree ideal for lawns, parks
***PARADISE TREE** Simarouba glauca	35'- 50'	large fast growing native, spreading habit
***WEST INDIAN MAHOGANY** Swietenia mahagoni	35'- 60'	excellent shade tree, spreading habit
***BALD CYPRESS** Taxodium distichum	60'- 90'	fresh water swamp habitats deciduous

SOUTH FLORIDA

*Asterisk denotes plants native to south Florida
Heights are as per "Xeriscape Plant Guide II."
This list is not all-inclusive. Check with local agencies for appropriateness of species in your area.
'LY' indicates susceptibility to lethal yellowing.

Exhibit 1

Andrew J. Meyers
County Attorney

OFFICE OF THE COUNTY ATTORNEY
115 S. Andrews Avenue, Suite 423
Fort Lauderdale, Florida 33301

954-357-7600 · FAX 954-357-7641

MEMORANDUM

TO: Board of County Commissioners

FROM: Andrew J. Meyers, County Attorney

DATE: October 26, 2017

RE: **Regulations on Trees Planted and Maintained Near Power Lines**
CAO Files: 17-026 & 17-114

The Board directed this Office to research the available mechanisms through which the County may encourage or require property owners to (1) refrain from planting trees or other foliage in locations on their property that may foreseeably cause foliage-related power outages in storm events, (2) maintain trees and other foliage on their property so as to minimize or avoid such foliage-related power outages, and (3) allow FP&L to enter their properties, as necessary, to cut trees and other foliage to reduce the risk of such power outages. This memorandum responds to each question by first discussing the regulations currently in place and next addressing legal options available to the County.

Analysis

I. Prospective Prohibition on Planting of Trees Near Power Lines

Currently, the County regulates where trees are planted in two ways. First, those in the unincorporated areas seeking a site plan review as part of land development must comply with guidelines regulating the distance trees must be from power lines.[1] Second, a property owner who must replace a removed tree must place the new tree a safe distance from power lines.[2] Apart from these two circumstances, however, the County does not currently prohibit a property owner from planting trees, even large trees, near power lines. Based on our review of regulatory practices of our neighboring counties, larger municipalities within those counties, and Broward County municipalities, it appears that almost all of these local governments regulate tree planting similarly to the County.

[1] Broward County Code of Ordinances Section 39-84(c).
[2] Broward County Code of Ordinances Section 27-408(i)(4)b.

We believe the County has the regulatory power to enact an ordinance prohibiting certain trees from being planted near power lines within the unincorporated areas of the County. An example of this type of ordinance was enacted by the City of Parkland, which requires newly planted trees to be planted a safe distance from electrical lines.[3]

II. Required Maintenance of Trees Near Power Lines

Currently, no County code provision requires residents to maintain trees and foliage near power lines, and almost no other counties and municipalities within South Florida require the pruning of trees near power lines. As discussed to a greater extent in section III of this memorandum, FP&L has historically been responsible for maintaining trees and foliage within its easement areas. Therefore, this section focuses on possible mechanisms to encourage or require property owners to assist with maintaining trees near power lines.

The County could enact an ordinance requiring property owners to prune, or even remove, trees near power lines within the unincorporated areas of the County. To again use the City of Parkland as an example, the City has an ordinance stating that any existing tree planted too close to a power line must be pruned if required pruning would remove no more than twenty percent (20%) of the tree's canopy. Trees that cannot be pruned may be removed, and permitting fees are waived for those seeking to remove offending trees.[4] Other municipalities have similar tree removal ordinances. For example, the City of Plantation requires the removal of any damaged tree that could interfere with utilities,[5] and the City of Dania Beach requires the removal of trees that have caused or could cause damage to a utility.[6]

Requiring property owners to prune or remove trees on their property could create constitutional concerns. If the County were to require the removal of trees near power lines, the action could arguably qualify as a taking requiring compensation to the property owner. Also, a homeowners' or neighborhood association might have covenants in place limiting a property owner's ability to remove or maintain trees. Under the United States and Florida Constitutions, a law may not impair a contract unless the government can demonstrate a significant public purpose that outweighs the significance of the impairment.[7] To avoid constitutional challenge, it is recommended that any ordinance requiring pruning or removal be enacted with a savings clause indicating that it is effective to the full extent it does not abrogate existing agreements.

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[3] City of Parkland Code Section 95-1550A.
[4] City of Parkland Code Section 95-1550B.
[5] City of Plantation Code Section 13-48(a).
[6] City of Dania Beach Code Section 820-10.
[7] *See Searcy, Denney, Scarola, Barnhart & Shipley v. State*, 209 So. 3d 1181, 1190-94 (Fla. 2017).

The County could also attempt to incentivize property owners to proactively maintain trees near power lines. For example, the County could waive permitting fees or subsidize property owners that wish to prune, remove, or transplant trees near power lines. The County could also amend sections of Chapter 27 of the Broward County Code of Ordinances to decrease restrictions on the removal or transplanting of historical and specimen trees when those trees are near power lines. Additionally, although the County already exempts shaping of trees to protect infrastructure from the general prohibition on tree abuse,[8] it could further amend that chapter to promote the removal of dangerous trees by making proximity to a power line an express justification for the removal of a tree.[9]

III. FP&L Access to Private Property to Maintain Trees

Legally, FP&L has a right-of-way easement across those areas in which it runs its power lines. As an easement holder, it has the ability to maintain the easement and may enter onto private property to do so without the permission of the property owner.[10] FP&L's standard form easement agreement grants it broad authority to keep its easement area free of trees and other foliage as well as the authority to cut dead, leaning, or damaged trees outside of its easement area where those trees may interfere with its power lines.[11] Additionally, to the extent a dangerous tree might be within an area not covered by FP&L's easement, as a public utility, FP&L has limited eminent domain powers and may destroy dangerous trees for the purpose of maintaining its power lines.[12] By state statute, the County may not impede FP&L from maintaining its power lines and exempts FP&L from tree removal licensing requirements.[13]

The County could make it an offense to obstruct an FP&L employee or contractor in its trimming or removal of trees within the unincorporated areas. The Town of Southwest Ranches, for example, has an ordinance that makes it unlawful for anyone to impede the ability of a utility company to enter private property to maintain its easement or to prevent a utility company from removing or pruning a hazardous tree.[14] However, enforcing such an ordinance could potentially inject the County into what amounts to a private property dispute between FP&L (the easement holder) and a private property (fee) owner, and the obstruction of FP&L employees and contractors does not appear to be a pervasive problem.

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[8] Broward County Code of Ordinances Section 27-410(a)(3).
[9] Broward County Code of Ordinances Section 27-408(c)(5).
[10] Fla. Admin. Code. R. 25-6.037; *Collom v. Holton*, 449 So. 2d 1003, 1005 n.1 (Fla. 2d DCA 1984).
[11] Florida Power & Light Company, Index of Standard Forms (https://www.fpl.com/rates/pdf/electric-tariff-section9.pdf).
[12] Sections 74.011, 361.01, Fla. Stat.
[13] Section 163.3209, Fla. Stat.
[14] Town of Southwest Ranches Code Section 26-1.

IV. Enacting a Countywide Ordinance

This Office's response to the Board's three questions has been with regard to the County's powers within the unincorporated areas. Any ordinance regulating the matters discussed above could be enacted countywide, but municipalities would be empowered to "opt out" by passing a conflicting ordinance. If there is an interest in any such ordinance having countywide application, it is recommended that the ordinance provide that it will only be applicable within municipal boundaries if the applicable municipality and the County have entered into an agreement requiring the municipality to enforce the ordinance within its boundaries. For this reason, it might be more practical for any such County ordinance to apply only within unincorporated Broward County, and for municipalities to adopt similar ordinances to be applicable within their boundaries.

Conclusion

Historically, it has been the obligation of the electrical utility, here FP&L, to maintain power lines. Nevertheless, the County may require private property owners to assist with keeping trees and other foliage from damaging power lines. The County can also waive certain existing requirements, such as fees, where a property owner wishes to transplant or install a new tree at a safe location. Finally, the County could engage in efforts to make the public aware of the danger of planting certain trees near power lines and of the importance of regular maintenance near power lines.

We await the Board's further direction regarding this matter. To obtain municipal input and in an effort to maximize uniformity, we are prepared to discuss this matter with attorneys for Broward County municipalities or to provide legal support for the County Administrator as she discusses the matter with her municipal colleagues. In the interim, please feel free to contact Deputy County Attorney Maite Azcoitia or me with any questions or concerns.

AJM/MA/JKJ/gmb

c: Bertha Henry, County Administrator
Bob Melton, County Auditor
Maite Azcoitia, Deputy County Attorney
Joseph K. Jarone, Assistant County Attorney