



Legislation Text

File #: ID 2016-172, **Version:** 1

TO: Mayor and City Commission

FROM: Douglas E. Smith, City Manager

DATE: April 6, 2016

MOTION - AUTHORIZATION TO ADVERTISE AN ORDINANCE TO AMEND THE LANDSCAPING MAINTENANCE REQUIREMENTS OF THE LANDSCAPING AND ZONING CODES TO ADD VERBIAGE FOR "ENCROACHING ON PROPERTY OF OTHERS"

BACKGROUND: The proposed ordinance amends Chapter 23-Landscaping, Article 1 - General, Section 23-12 - Maintenance of Landscaping, and amends Appendix A Zoning, Article XL Section 40.9 - Landscape Maintenance Requirements. The intent is to modify landscaping maintenance requirements pertinent to landscaping that encroaches onto the property of others. City Commission directed staff to review the Code as the result of feedback received.

The ordinance would change the burden of responsibility for maintenance of vegetation that grows across property lines and infringes from one property onto the neighbor's. For discussion purposes, the example of a tree planted on a property with branches overhanging the neighbor's yard shows the change best.

The current Code, which follows Common Law allows the neighbor of tree owner to prune, cut or maintain any portion of the tree owner's tree which encroaches onto the neighbor's property. For the tree owner, his responsibility rests in maintaining the portion of the tree that is on his own property. The Code simply has the responsibility of tree maintenance split at the property line, with each property owner maintaining the portion above his property.

If the ordinance is passed, rather than maintaining the tree himself (which could still be done), the neighbor could require the tree owner to maintain all parts of the tree, those that are on his own property and those that encroach onto neighbor's property. In order for this to happen, the neighbor would have to notify the tree owner in writing and grant tree owner access to his property. The tree owner would then be responsible for all maintenance to the tree.

This item went before the Development Review Committee on January 26, 2016 and its comments are reflected in the attached meeting minutes. The item went before the Planning and Zoning Board on March 1, 2016. A draft copy of the meeting minutes is also attached.

RECOMMENDATION: The Planning and Zoning Board voted to deny the proposed changes with a 3-1 vote.

FISCAL IMPACT: n/a

CONTACT PERSON: Benjamin J. Ziskal, AICP, CEcD, Director of Economic Development