

Tree Height Restrictions within Electric Utility ROWs

Upon further review of the Florida Statute 163.3209, it appears that no trees exceeding 14 feet in mature height can be planted within electric utility ROWs. While this is disappointing, this statute was intended to provide electrical service reliability by preventing power outages and safety hazards.

1. Although Marco Island's Tree Planting Guidelines and Recommended Tree List were developed in collaboration with LCEC and the Naples Botanical Garden, **there is no record of any formally executed vegetation maintenance plan** as outlined under Florida Statutes 163.3209 between Marco Island City and LCEC.

As a result, the following statutory restrictions remain:

- a. **No local government may require or enforce planting, trimming, or pruning standards within established electric transmission or distribution right-of-way.**
- b. **No tree or vegetation may be required or permitted to be planted within an electrical ROW if it will exceed 14 feet in height.**
- c. BAC's collaboration or input from LCEC **does not meet the requirements** of a formally adopted, written joint vegetation plan – and even if a plan was adopted, **the 14-foot height limitation still applies**, as stated in the last two lines of statute 163.3209.

Relevant part of the statute:

"A local government shall not adopt an ordinance or land development regulation that requires the planting of a tree or other vegetation that will achieve a height greater than 14 feet in an established electric utility right-of-way..."

While Marco Island's planting guidelines properly cite safety clearances and include language about utility coordination, they are not legally binding and do not supersede the requirements of FL Statute 163.3209.

LCEC's internal standard, cited in the email from Vegetation Manager Steve Rounds, calls for:

1. **12 feet of vertical clearance** below primary lines, or
2. **1 foot below the lowest communication line**, whichever is greater,
3. **10 feet of radial clearance** from primary lines, and
4. Fronds or branches of palms must be trimmed **to below the neutral** line if they grow above it.

This confirms that even LCEC-acknowledged species on the Recommended Tree List for Marco Island cannot be planted within electric ROWs **if their mature height exceeds 14 feet.**

Action Plan Recommendations:

1. **Confirm there was no formal agreement**
2. **Update the Tree Planting Guidelines**
3. **Develop a Utility-Compliant Tree List**
4. **Public Education and Outreach**
5. **Update Permitting Processes**
6. **Focus on Larger Trees in Utility-Free Areas:** City parks, Medians without overhead lines, Canal buffers, Wide ROWs, and public landscapes without ROW constraints
7. **Seek City Attorney's opinion – if necessary**

Respectfully submitted – Victoria Myers