



To: Sylvia Carrillo, City Manager

From: Kennedy Higgins, Senior Planner- Development Services

Date: January 30, 2025

Subject: B3 Text Amendments for Tree Protection

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**BACKGROUND/HISTORY:**

The B3 code was adopted in November of 2019, and subsequently amended in April of 2022. From 2016 to 2023, Bastrop's population grew by approximately 34.3%. Due to the increased growth from Austin to the west, the availability of large land parcels, the availability of water, and abundant natural resources, the growth shows no signs of slowing.

***“The intent of the Code is to establish the Standards that enable, encourage, and ensure the community achieves:***

- ✓ ***Fiscal Sustainability***
- ✓ ***Geographically Sensitive Developments***
- ✓ ***Perpetuation of Authentic Bastrop” pg. 11 – B3 Code***

While the aspirational ideas envisioned in the preamble of the B3 code (as noted above) to provide for fiscal sustainability, geographically sensitive developments, and perpetuation of Authentic Bastrop, several segments of the code accomplished just the opposite.

The B3 code removed several key factors to preserving the natural environment.

***“Retain its natural infrastructure and visual character derived from topography, woodlands, farmlands and waterways;” Pg 12 -The B3 Code***

While that may be a lofty aspirational goal, without increased protection for the natural environment, the minimal tree standards and penalties for removal of trees in the B3 creates a situation where it is easier to cut down trees, than it is to save them.

Attachment 1

The proposed amendments for Sections 6.3.004 Protected & Heritage Trees, and Table 2.1.003 Preferred Plant List (B3 Technical Manual), are proposed to rectify the original intent of the B3 code which allows for any tree not on the preferred plant list to be taken down without penalty.

**TABLE 2.1.003 PREFERRED PLANT LIST**

| <b>Canopy</b>     |                   | <b>Accent</b>        | <b>Grasses and Shrubs</b>   |
|-------------------|-------------------|----------------------|-----------------------------|
| American Elm      | Texas Hickory     | Crape Myrtle         | Anthony Waterer Spirea      |
| Austrian Pine     | Texas Red Oak     | Deciduous Magnolia   | Apache Plume                |
| Bald Cypress      | Western Soapberry | Eastern Red Cedar    | Autumn Sage                 |
| Black Jack Oak    |                   | Eve's Necklace       | Dwarf Wax Myrtle            |
| Bur Oak           |                   | Mexican Buckeye      | Gray Santolina              |
| Caddo Maple       |                   | Mexican Plum         | Gulf Muhly                  |
| Cedar Elm         |                   | Red Bud              | Indian Grass                |
| Chinese Pistache  |                   | Smoke Tree           | Inland Sea Oats             |
| Chinquapin Oak    |                   | Vitex                | Lindheimer Muhly            |
| Lacebark Elm      |                   | Wichita Blue Juniper | Little Bluestem Grass       |
| Live Oak          |                   |                      | Little Bunny Fountain Grass |
| Loblolly Pine     |                   |                      | Mexican Feather Grass       |
| Magnolia          |                   |                      | Rose Creek Abelia           |
| Post Oak          |                   |                      | Rosemary                    |
| Red Cedar         |                   |                      | Seep Muhly                  |
| Shumard Red Oak   |                   |                      | Texas Sage                  |
| Southern Magnolia |                   |                      |                             |
| Sweetgum          |                   |                      |                             |

Currently, mitigation for removal of a tree starts at 13 caliper inches, as long as the tree is on the preferred plant list. If it is not on the preferred plant list (see above), no mitigation is required. State legislation allows Cities to begin mitigating at as low as 10 inches. This amendment to the B3 code will ensure that more trees will either be protected, or there will be a fee in lieu of in order to cover the cost of a replacement tree.

Additionally, a tree survey is required for any tree on a property that is over 6 inches. There are not currently regulations around the tree survey, as they were only a requirement within the Public Improvement Plan. These amendments will add an expiration date to the tree survey, to ensure that an accurate and recent survey of the trees on site is provided. It will also add further requirements to ensure adequate protection.

One recommendation from independent arborists is to use the Arbor Day Foundation Tree list. This list has many trees, but does also include some invasive species and trees that might not thrive here since it is not a Texas specific list. One important thing to note is that the Pecan tree (Texas state tree) is not on the City's current list and that with many other species have been added to our list updating the chart above. From the last meeting White Mulberry has been removed as it is invasive per the native plant society.

The proposed amendment to the tree protection allows residents and visitors to enjoy the natural environment and the trees that are so vital to the community.

**FISCAL IMPACT:**

None

**RECOMMENDATION:**

On January 13, 2025, the Parks and Recreation Board met to discuss these changes. The board recommendations all passed unanimously.

The board voted to increase the fee per caliper inch to \$250 instead of \$150 per caliper inch.

The board supports the moderate option for both the protected and heritage trees as it pertains to the size of the replacement tree being planted and suggested the following as ii: If an ISA-certified arborist deems a replacement tree as dead or dying within five years of the date it was planted, it must be replaced by another replacement tree in compliance with this code.

The board supports Penalty Option 1 with the following changes: *Penalties for Unauthorized Removal of Trees*. If any tree is removed from any real property, including injury to a tree resulting from the owner's failure to follow required tree protection guidelines, that results in or may reasonably be expected to result in the death of the subject tree(s), the property owner shall be determined to be in violation of this Ordinance. Any person or corporation violating any of the provisions of this ordinance shall, upon notice of the citation, fines will be assessed at a rate of \$2000 per day until paid. In addition, the Certificate of Occupancy shall not be issued until the fees/penalties are paid in full.

The board recommended a ½ credit for every inch of invasive tree being removed. The intention is to give credit for the removal of invasive trees.

The parks board recommendations have been included in the attached document (attachment 1) in italics.

The board supports the new tree list and also recommended categorizing all oaks as just Oaks/*Quercus*.