



**To: City of Dripping Springs Mayor & City Council**  
**From: Howard J. Koontz, AICP – Planning Director**  
**Date: Tuesday, November 15, 2022**  
**RE: Tree Preservation Ordinance Amendment**

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## **I. Background narrative**

In 2021, it came to staff's attention that the tree preservation ordinance offered a loophole in development that permitted property owners to mitigate tree removal by paying into a tree fund, instead of preserving the urban canopy before- and during construction activities. This provision to pay for tree removals as mitigation --coupled with the cap on the overall payment required-- meant for many projects, the financial incentive to remove trees outweighed the environmental benefit of keeping trees. At that time, staff envisioned undertaking a text amendment to revise the code and create a greater emphasis on building projects that retained existing urban canopies.

As a function of the city's current comprehensive planning process, staff received survey data that indicated the community strongly values the viewsheds in the area, and further supported the city enforcing tougher standards that would preserve the sense of place that makes our region what it is.

A survey question posed in August, 2022, read: "In your opinion, what is the community's greatest asset?" Thirty-six percent of 1,043 respondents answered 'Natural Beauty & Resources', the highest response of any of the 12 possible answers. In the same survey, a question read "What should the City focus on? Choose your top 5 priorities." Sixty-nine percent of respondents included 'Protection of Natural Resources' in their top 5 priorities, and 60% included 'Parks & Open Space'. Lastly, to the question "What do you wish Dripping Springs had more or better of? (Choose your top 3)", over 46% of respondents included 'Protected natural areas' in their top 3, and over 39% wanted more 'Parks and Open Space', the 2<sup>nd</sup> and 3<sup>rd</sup> most popular answers.

Staff accepted these indicators from the survey respondents as impetus to accelerate the amendment process. Throughout the summer and autumn, the existing ordinance has been read, reviewed, and compared with neighboring city's ordinances. A host of changes have been made and reviewed by staff, and thus far one work session has been held with the Planning Commission to review the draft and solicit input on the direction of the ordinance goals (October 11, 2022).

The single biggest policy change to this tree preservation ordinance text is the higher value attributed to existing trees that are retained throughout development activities. Previously, trees of

all ages and sizes could be removed, essentially outright, and their loss compensated simply by remitting a financial penalty to the city. Now the text reads that existing trees offer far more value after the projects' completion, and both tree removal and to a large extent replacement trees are the more expensive option. This incentivizes tree preservation on new development projects.

Also, a major improvement is the identification and clarification of 'Protected Trees', namely Heritage, Legacy and Standard trees. With differing allowances for protection and preservation based on their cultivar and size, establishing the composition of the urban canopy and the location of these trees now becomes paramount when designing and developing a site for new development.

This revision recognizes the devastating effects of Oak Wilt disease (an infectious disease caused by the fungus *Ceratocystis fagacearum*) and institutes guidelines for the identification and treatment of Oak Wilt, even on private property, in a manner comparable to civil enforcement of other public health nuisances. It also discourages the planting of native red oaks like Spanish, Shumard, and Blackjack oak which are most susceptible to infection, and incentivizes more diversity in the re-created urban canopy.

The last of the most significant amendments is to §28.06.0591 Mitigation for Tree Removal, which no longer provides for a cap on tree removal costs and creates much more financial incentive to preserve trees rather than remove them.

Other additions will be to provide a list of preferred native trees approved for installation, and the creation of an advisory tree board to address arboricultural issues and appeals from the development community. The tree board will serve the double purpose of fulfilling the requirement of The National Arbor Day Foundation for Dripping Springs to be a Tree City USA.

The definitions section of the ordinance has been expanded, and a requirement for tree maintenance to meet ANSI standards, consistent with national tree care SOPs, will be required following adoption.

The process for this review, recommendation, and adoption has been to first hold a work session with the Planning Commission. That meeting was October 11, 2022. From their commentary and direction, staff made some minor amendments and now presents the draft document to the Mayor & City Council at this work session for their commentary and direction. Simultaneously, staff will post the draft language text on the city's website for the remainder of November and into December, when the ordinance text will return to the Planning Commission for their formal recommendation to City Council on December 21, 2022. The item will then return to the City Council for possible formal adoption on January 3, 2023.

## **II. Action item**

For this item, staff seeks commentary and direction from the Council on the draft text before you. As this is a work session item and not an item for consideration, no action need be taken on the text at this time. Staff will post the text to the website for public review, and return through the Planning Commission and City Council later this year and into early 2023.