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Texas

## Tree Preservation and Landscaping Ordinance

Laura Mueller, City Attorney  
Tory Carpenter, Planning  
Director

## Current issues that prompted this revision:

- Community focus on natural environment
- Clear-cutting of development sites
- Low (perceived) value to keeping existing urban canopy by some applicants
- Low financial barrier to creating bare pad sites
- Focus on paying rather than preservation
- Water Conservation



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# Summer 2022 Comprehensive Plan

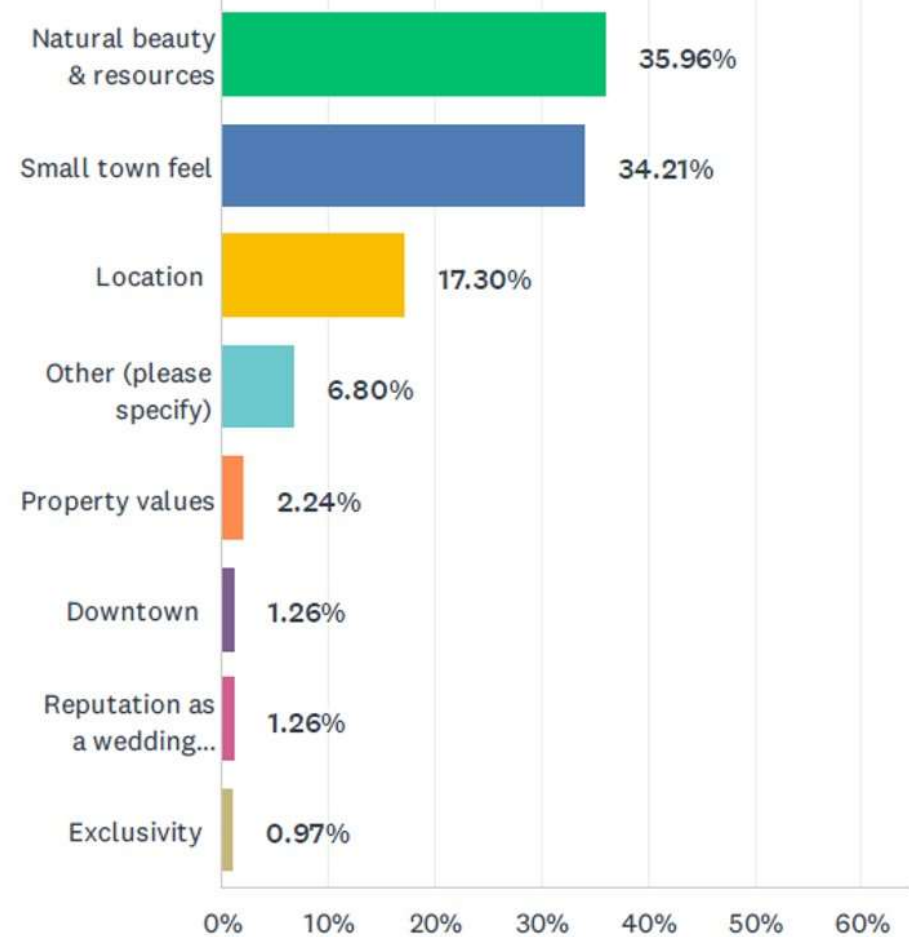
## Survey Question:

### Survey #2

“In your opinion, what is the community’s greatest asset?”

Other:

- Friendly people
- Schools/ DSISD
- Night sky
- None of the above



# Landscaping and Tree Preservation Ordinance Team:

**Landscaping Subcommittee:** Councilmember Crow, Mayor Pro Tem Manassian, Brent Luck, Andy Binz, Michelle Fischer, Aaron Reed, Tory Carpenter

**City Reviewers:** Chad Gilpin, City Engineer; Ryan Turner, City Prosecutor; Peter Dufresne, Landscape Expert; Shane Pevehouse, Building Official (Code Enforcement); Mark Escobedo, Code Enforcement

**Outside Reviewers:** Matthew Scrivener (Village Grove/Gateway Village) with Phil Bobel, Rex Baker, and Brandon Krause; Rick Broun, Dripping Springs Water Supply Corporation



## Proposed Ordinance

- Two Scopes:
  - Residential homeowners and small projects with 4 units or less (Divisions 1 & 2)
  - All other projects including Residential Subdivisions and Commercial Projects (Divisions 3, 4, & 5)
- Added a host of definitions, which will further refine meaning to key terms and concepts
- Water Conservation Incentives including installation of drip irrigation and requirement for less grass turf





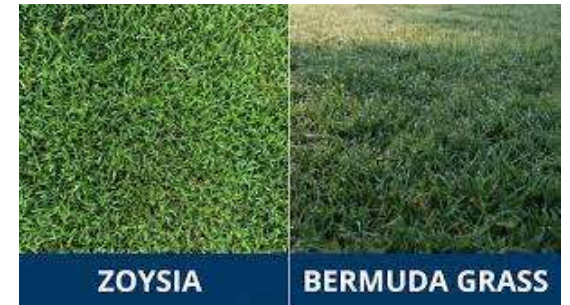
## Residential Homeowners and Small Projects Requirements (Divisions 1 & 2)

- Applies in City Limits (28.06.003)
- Cannot cut down any healthy Legacy hardwood tree or Heritage Tree without a waiver
  - Hardwood trees as defined
- Cannot Damage trees that are protected by the ordinance
- Cannot trim or cut oaks between February and July without a waiver
- Trimming or cutting of oaks requires wound dressing
  - Exceptions for emergencies exist
- Cannot irrigate or water where there is excessive water flow or runoff on sidewalks, driveways, streets, or ditches



## Site Development: Larger Residential Subdivisions (more than 4 units) and all Commercial Projects (Divisions 3, 4, & 5)

- Applies in City Limits and Extraterritorial Jurisdiction
- Cannot cut down or damage any healthy Legacy hardwood or Heritage Tree without a waiver
- Plant Street Trees
- Cannot pave over Critical Root Zone
- Landscape Buffers
- Landscape Plan, Tree Survey, and Irrigation Plans required with proposed site plans and construction plans
- Irrigation Plan
- Cannot trim or cut oaks between February and July without a waiver
- Trimming or cutting of oaks requires wound dressing
  - Exceptions for emergencies exist
- Interior Lot Landscaping
  - Limitation on amount of turf
  - Incentives for drip irrigation
  - No St. Augustine Grass, native/drought-tolerant grasses required



Zoning	No. of Required Trees
SF-1	2
SF-2	2
SF-3	1
SF-4	2
SF-5	1 per unit
MF	Follow Nonresidential Street Tree Requirements 28.06.071(b)
MH	1





## Residential Homeowners Violations

- Applies in City Limits (28.06.003)
- Class C Misdemeanor
  - Cannot cut down any healthy Legacy or Heritage Tree without a waiver
    - Hardwood trees as defined
    - Certain other trees as listed
  - Cannot Damage trees that are protected by the ordinance
- Civil Remedies
  - Injunctive Relief
  - Civil Penalties
- Mitigation for Tree Removal
  - Replace removed trees
  - Relocate removed trees
  - Preservation in excess of requirements
  - Payment of tree mitigation fees
  - Combination of methods required

Tree Classification	Tree Diameter Removed (DBH)	Tree Planting: Aggregate TC in inches of trees removed	Mitigation Fee per inch (TC) of tree removed
Heritage	24.0" or greater	3:1	\$200
Legacy	12.0" – 23.9"	1.5:1	\$100



## Site Development: Larger Residential Subdivisions (more than 4 units) and all Commercial Projects Violations

- Class C Misdemeanor
  - Removal of damage of protected trees
  - Death of adjacent trees due to construction
  - Use of unauthorized landscape material
  - Paving over the critical root zone
- Civil Remedies
  - Injunctive Relief
  - Civil Penalties
- Mitigation for Tree Removal
  - Replace removed trees
  - Relocate removed trees
  - Preservation in excess of requirements
  - Payment of tree mitigation fees
  - Combination of methods required

<u>Tree Classification</u>	<u>Tree Diameter Removed (DBH)</u>	<u>Tree Planting: Aggregate TC in inches of trees removed</u>	<u>Mitigation Fee per inch (TC) of tree removed</u>
<u>Standard</u>	8.0" -11.9"	1:1	\$50
<u>Legacy</u>	12.0" – 23.9"	1.5:1	\$100
<u>Heritage</u>	24.0" or greater	3:1	\$200



# Tree Preservation

- Clarified excepted activities
- Created categories for 'significance' of trees (standard, heritage, legacy)
- Listed plan submittal requirements
- Revised mitigation for removed trees

**General Tree Trunk Diameter**  
**Standard:** 8 inch to 12 inch  
**Legacy:** 12 inch to 24 inch  
**Heritage:** 24 inch and above



## Tree Preservation

- Limits removal of trees during development of commercial and residential projects.
- Requires tree preservation plans for new projects (on platting)
- Requires mitigation for all tree removal with an emphasis on planting a variety of preferred tree types over paying.
- Prohibits removal of healthy Heritage Trees (24" caliper or larger) except with waiver approval.
- Prohibits removal of Heritage Trees and hardwood Legacy Trees on any property, including individual residential lots, in the City.





## **Tree Preservation: Larger Residential Subdivisions (more than 4 units) and all Commercial Projects (Divisions 3, 4, & 5)**

### Residential Subdivision (5 or more dwelling units):

- 100% of all Heritage and Legacy hardwood trees
- 35% of all Standard and Legacy non-hardwood trees
- Heritage and Legacy hardwood trees may be removed with a waiver where they are located within potential infrastructure areas

### Commercial, Industrial, and Multi-Family Subdivision:

- 100% of all Heritage and Legacy hardwood trees
- 40% of all Standard and Legacy non-hardwood trees
- Heritage and Legacy hardwood trees may be removed with a waiver where they are located within potential infrastructure areas





Tree	Heritage Size	Legacy Size	Standard Size	Notes
Ashe Juniper	24 inch	8 inch	6 inch	Golden Cheek Warbler
Huisache (Acacia farnesiana)	24 inch	12 inch	8 inch	
Mesquite (Prosopis glandulosa)	24 inch	12 inch	8 inch	
Arizona Ash (Fraxinus velutina)	24 inch	12 inch	8 inch	
Hackberry (Celtis spp.)	24 inch	12 inch	8 inch	
Texas Persimmon (Diospyros texana)	12 inch	5 inch	3 inch	
Texas Redbud (var. texensis)	12 inch	5 inch	3 inch	
Texas Mountain Laurel (Sophora secundiflora)	12 inch	5 inch	3 inch	
Condalia (Condalia hookeri)	12 inch	5 inch	3 inch	
Possum Haw (Ilex decidua)	12 inch	5 inch	3 inch	In floodplain only
Hawthorne (rataegus texana)	12 inch	5 inch	3 inch	



## Protected Trees



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**Plus Hardwood Trees:**  
Texas Ash, Bald Cypress,  
American Elm, Cedar  
Elm, Texas Madrone,  
Bigtooth Maple, All  
Oaks, Pecan, Arizona  
Walnut, Eastern Black  
Walnut, and other  
designated hardwood  
trees.

## **Tree Preservation Incentives – Residential Subdivisions and Commercial Projects**

- Parking Space Reduction
- Sidewalk Waivers
- Additional tree preservation credit for Tree Clusters
- Landscape Credits
- Minimum lot size and setbacks

### **Exceptions to Tree Preservation**

- Natural Disasters
- Diseased or dead trees
- Distressed trees
- Trees causing physical damage to structures or infrastructure
- Trees interfering with traffic lanes
- Utility easements and drainage facilities



## Non-Native Trees – Not Protected

Chinese Pistache (*Pistacia chinensis*)

Chinaberry (*Melia azedarach*)

Chinese Tallow (*Sapium sebiferum*)

Tree of Heaven (*Ailanthus altissima*)

Salt Cedar (*Taxodium species*)

Japanese Ligustrum (*Ligustrum japonicum*)

Nandina (*Nandina domestica*)

Paper Mulberry (*Broussonetia papyrifera*)







# Tree Preservation Exceptions

- Rebuild after natural disaster or damage to trees from fire or natural disaster
- Diseased or dying trees
- Exempted tree species
- Right of way including sight lines and opening up of traffic lanes



## Water Conservation

- **210 Reuse Discount for installing drip irrigation**
- **Turf Grass Areas**
  - Use of grass limited to Zoysia, Bermuda, Buffalograss, Habiturf, or other drought-tolerant turf grass varieties as approved by the City in consultation with Texas A&M Agrilife Extension.
  - Single-family residential home subdivision: turf grass areas shall be limited to a maximum of 50% of the total provided landscaped area, except that up to 75% of the areas can be turf if supported by drip irrigation.
  - In all other developments, turf grass areas shall be limited to a maximum of 25% of the total provided landscaped area, except that up to 50% of the areas can be turf if supported by drip irrigation in lieu of spray irrigation.
- **Working with Water Providers on enforcing additional requirements put in place by the Water Providers.**



## P&Z Questions

### Applicability

- Individual Homeowners and Small Projects – City Limits *renamed* **INDIVIDUAL RESIDENTIAL LOTS AND SMALL PROJECT LANDSCAPING AND TREE PRESERVATION**
- Large Residential Projects and Commercial Projects – City Limits and ETJ same as Platting and Site Development *renamed* **COMMERCIAL AND SUBDIVISION LANDSCAPING AND TREE PRESERVATION**

### Legacy Trees

- 100% hardwood to be preserved for everyone
- Non-hardwood preserved at percentage for Large Residential Projects and Commercial Projects

### Hardwood Trees

- Defined in Ordinance: Texas Ash, Bald Cypress, American Elm, Cedar Elm, Texas Madrone, Bigtooth Maple, All Oaks, Pecan, Arizona Walnut, Eastern Black Walnut

### Enforcement

- Civil, Criminal, and Mitigation as defined by ordinance
- Tree Plans during development and building to be reviewed by Planning and Building Departments



## Recommendations and Next Steps

### **Staff Recommendation:**

Approval or Postponement to December 19, 2023

### **Development Manual:**

Development Manual to be updated with charts included in the Council Packet.

### **Effective Dates:**

- 30 days from date of publication:
  - Individual Residential Lots and Small Project Landscaping and Tree Preservation
  - Commercial and Subdivision Landscaping and Tree Preservation other than Sections 28.06.079 – .081 (Tree Preservation) and Division 5. Standards – Commercial and Subdivision Interior Lot Landscaping
- 90 days from date of publication
  - Sections 28.06.079 – .081 (Tree Preservation) and Division 5. Standards – Commercial and Subdivision Interior Lot Landscaping

### **Education**

- Codes and Coffee with Building Department
- Planning Department Education for Developers
- Information on Website
- Various Meetings open to public regarding ordinance, tree preservation, and water conservation





# QUESTIONS?



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