



AGENDA REPORT SUMMARY

Meeting Date: February 13, 2024

Subject Tree Protection Ordinance

Prepared by: Nick Zornes, Development Services Director

Approved by: Gabriel Engeland, City Manager

Attachment(s):

1. Draft Ordinance
2. Appendix A

Initiated by:

City Council

Previous Council Consideration:

May 24, 2022, November 28, 2023

Fiscal Impact:

A certified arborist was contracted in February of 2023, for a fee of \$10,000. Funds were used in Fiscal Year 22/23 from the Sustainability Fund.

Environmental Review:

This Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970.

Summary:

- The City's Tree Protection Ordinance (Los Altos Municipal Code Chapter 11.08) provides regulations regarding the removal of certain types of trees within the City of Los Altos.
- The Ordinance was last updated in 2007 and required updating to remain relevant and reflect the changing environment and current policies.
- On May 24, 2022, the City Council tasked the Environmental Commission to work with City staff to review the Ordinance and recommend changes as needed.
- Following the hiring of new Sustainability staff in October 2022, staff began conducting research and peer review with the Environmental Commission's continued support on the policy level.
- In February 2023, staff began working with a certified arborist to engage in and provide technical and policy recommendations to inform the update.

Reviewed By:

City Manager

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- In August 2023, Staff presented the final policy updates to the Environmental Commission for review and comment.
 - On November 28, 2023, the City Council considered the first iteration of the amended Tree Protection Ordinance

Staff Recommendation:

Adopt an ordinance of the City Council of the City of Los Altos amending Chapter 11.08 Tree Protection Regulations and find that this ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970.

Purpose

To update the City’s Tree Protection Ordinance to reflect current policies and procedures, protect the City’s vibrant urban forest, maintain tree canopy that contributes to carbon sequestration, and provide clear tree removal criteria for both residents and city staff.

Background

The City’s Tree Protection Ordinance provides regulations regarding the removal of certain types of trees within the City of Los Altos. The Ordinance was last updated in 2007 and required updating to remain relevant and reflect the changing environment, current policies, and best management practices.

Staff worked with a consultant for technical expertise who provided policy recommendations that were based on an analysis of current policies and procedures. To incorporate the recommendations into the ordinance, staff collaborated with the Planning Division (the Division within the City that reviews Tree Removal Permits) and the Environmental Commission.

Discussion/Analysis

Staff is proposing amendments and additions to the ordinance in the following areas to remain in alignment with the tree policies of neighboring jurisdictions, to preserve the City's vibrant tree canopy, and to help meet our climate adaptation goals:

- Definition of a protected tree
- Criteria for removal
- Replacement requirements

Definition of a protected tree: In order to protect more existing trees, staff recommends that all trees to be protected at a smaller diameter of 12 inches rather than the previous diameter of 15 inches. This also includes protecting native trees at a diameter of 10 inches as natives require less



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care, have a better chance of survival, provide food and shelter for local wildlife, and can withstand California’s drought conditions.

Criteria for removal: Tree protection ordinances have a number of key elements, including circumstances under which a tree may be removed. Clear decision-making criteria can often reduce misunderstandings and conflicts later in the process. In collaboration with the certified arborist, staff updated and clarified the current language. Arborists met with staff from various departments and discussed operational impressions of the ordinance in its current form. They reviewed relevant materials and benchmarked with surrounding cities on key issues and identified areas for improvement. To align with the CAAP, which calls for preserving, protecting, and growing the urban forest as a key element in sequestering carbon, the updated decision-making criteria and replacement system integrate these goals and focus on preserving and growing a healthy tree canopy.

Tree replacement: A section in the updated ordinance has been added to include tree replacement guidelines as follows: trees approved for removal shall be replaced in-kind, with some exceptions. In cases or at sites where smaller trees at maturity are proposed, more trees will be required. For example, if a 45-inch diameter tree is removed, and the applicant is proposing to replace it with a species that would reach 20 inches at maturity, two additional trees would be required. Applicants will be required to work with an arborist to determine appropriate tree replacement and develop a tree replacement plan. In cases where no tree can be replaced on-site, the applicant will be required to pay an in-lieu fee in an amount set by council. The City will utilize these funds to purchase, plant, maintain and monitor trees on public lands, or support the City’s urban forestry management goals. In-lieu fees vary amongst jurisdictions, below is a table summarizing various in-lieu options mainly in Santa Clara County.

| Jurisdiction | In Lieu Fee |
|---------------------|---|
| Los Altos | No |
| Campbell | Yes: In-lieu fee is equal to the fair market value of a standard City street tree (delivered and installed). |
| Cupertino | Yes |
| Gilroy | Yes: In lieu fee is equal to the value of the replacement trees required as specified. The in-lieu payment shall include funds sufficient for the care of the replacement tree during their establishment period. |
| Los Altos Hills | Not specified |



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| Los Gatos | Yes: in-lieu fee \$250 for each 15 gallon and each 24" Box Replacement Tree In-Lieu Fee* \$500 for each 36" Box Replacement Tree In-Lieu Fee* |
| Menlo Park | \$100-\$7,000 based on trunk diameter. |
| Milpitas | Not specified |
| Monte Sereno | Not specified |
| Jurisdiction | In Lieu Fee |
| Morgan Hill | Not specified |
| Mountain View | \$750.00 |
| Palo Alto | \$650.00 |
| San Jose | \$775.00 |
| Santa Clara | Not specified |
| Saratoga | Not specified |
| Sunnyvale | Yes: In -lieu fee shall be paid in accordance with the City's adopted Fee Schedule. |

Tree Removal Application Fees: Staff conducted research on cities in Santa Clara County to compare tree removal application fees. Research showed that the City of Los Altos' fee is significantly lower than the surrounding cities. Staff recommend increasing the application fee, including a fee per tree. Below is a table showing tree permit removal fees in the county:

| Jurisdiction | Permit Fee | Additional Tree Fee |
|---------------------|-------------------|----------------------------|
| Los Altos | \$75.00 | No |
| Campbell | \$249.00 | \$78.00 |
| Cupertino | \$328.00 | \$165.00 |
| Gilroy | \$313.00 | No |
| Los Altos Hills | \$250.00 | No |
| Los Gatos | \$250.00 | \$125.00 |
| Milpitas | \$247.00 | no |
| Monte Sereno | \$100.00 | no |
| Morgan Hill | \$120.00 | no |
| Mountain View | \$116.00 | \$58.00 |
| Palo Alto | \$472.00 | no |
| San Jose | \$268.00 | \$33.00 |



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| Santa Clara | \$295.00 | no |
| Saratoga | \$130.00 | no |
| Sunnyvale | \$373.00 | no |

November 28, 2023 – City Council Consideration

At its regularly scheduled meeting on November 28, 2023, the City Council considered the first iteration of the Tree Protection Ordinance. After receiving a Staff Report, Presentation and Public Testimony the City Council discussed the item in depth and provided City Staff with direction on additional modifications to the draft ordinance. Due to the nature of the modifications directed by the City Council the draft ordinance necessitates a reintroduction. The following modifications to the ordinance and resolution have been made:

- Reiteration of the ordinance Purpose and Intent language as a Whereas within the Draft Ordinance
- Modification of Section 11.08.110 for the removal of dead or diseased trees to not require a permit
- Modification of Section 11.08.110 for hazardous trees to not require a permit
- Modification of Section 11.08.120(C)(2) to clarify the thirty (30) days from the date of planting to when the area is ready
- Addition of Section 11.08.120.(D) to not require replacement trees when existing trees have caused direct damage of property
- \$0.00 Fee for Tree Removal Permit for Invasive Species

January 23, 2024 – City Council Introduction

At its regularly scheduled meeting on January 23, 2024, the City Council reintroduced the Tree Protection Ordinance. After receiving a Staff Report and Public Testimony the City Council discussed the item and made a motion to introduce the item with minor modifications for clarification that was found to be non-substantive.

Recommendation

Adopt an ordinance of the City Council of the City of Los Altos amending Chapter 11.08 Tree Protection Regulations to update current policies.