

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL CORRESPONDENCE
DEVELOPMENT SERVICES DEPARTMENT**

TO: Mayor and City Council

FROM: Florencio Peña, Director Development Services

THROUGH: Terry M. Brechtel, City Manager

COPY: Christopher J. Brady, Assistant City Manager, File

SUBJECT: Amending the Tree Preservation Ordinance

DATE: March 13, 2003

SUMMARY AND RECOMMENDATIONS

Development Services Department staff presented a summary of the Tree Preservation Ordinance at the "B" session on March 6, 2003. Attached is a matrix that compares the major provisions of the current ordinance, staff recommendations and Planning Commission recommendations. Staff recommends adoption of the Tree Preservation Ordinance as presented and that amendments to this ordinance be considered on an individual basis at the March 13 meeting. Attached please find the Planning Commissions prepared amendments.

Staff is available to assist the City Council with other amendments to insure there are no conflicts.

BACKGROUND INFORMATION

The current Tree Preservation Ordinance was implemented in March 1997. The ordinance required a review of the ordinance be performed and presented to Council three years after its implementation. As part of the Unified Development Code (UDC) revision process from March 2000-February 2001, a review committee began meeting to update the Tree Preservation Ordinance. UDC Consultant Mark White drafted a revised Tree Preservation ordinance after a series of public meetings. In January 2002, the draft Tree Preservation Ordinance was distributed to community and industry stakeholders. Stakeholders were unable to support the proposed ordinance as drafted by Mr. White. In spring, 2002, staff briefed the Balanced Growth Council Committee on Mr. White's proposed tree ordinance. The Balanced Growth Council Committee gave staff direction to meet with stakeholder groups to try and gain consensus. The stakeholder groups identified ten issues and consensus was gained on one issue. The Balanced Growth Committee then directed staff to develop a proposed Tree Preservation Ordinance for the nine remaining issues. In January 2003, staff presented the revised Tree Preservation Ordinance to the Urban Affairs Council Committee. The Committee directed staff to present the proposed ordinance to the Planning Commission for their recommendation. The City Council then

forwarded to the Planning Commission a six-signature memo requesting they make a recommendation to the City Council by March 6, 2003.

POLICY ANALYSIS

This is a Unified Development Code amendment that is consistent with the Master Plan's Neighborhoods Policy 3c. The current review began in March 2000 and was delayed until after adoption of the revised Unified Development Code that occurred on May 2001.

FISCAL IMPACT

The proposed ordinance includes a restructuring of Tree Preservation fees by eliminating a distinction between property inside the city limits and in the ETJ. The proposed ordinance also will increase fees and create new revenue for Woodland Stand Permit and Tree Maintenance Licenses. The fee adjustment is estimated to result in additional revenue of \$80,850 during FY 2002-2003. The cost of adding a plans examiner I, an inspector and a special projects officer is \$66,770 in FY 2002-2004. The full year financial impact to revenue and expenses is \$161,700 and \$156,800, respectively.

AMENDMENTS

The Mayor's office is preparing a list of amendments to be made to the Tree Preservation Ordinance on Thursday, March 13. Council members should forward any other suggested amendments to the Development Services Director by 5:00 p.m. Tuesday, March 11. Staff will then compile all of the amendments with the Mayor's amendments for distribution prior to Council consideration of the Tree Preservation Ordinance.

COORDINATION

Coordination has been with the following entities:

City Attorney's Office

Department of Public Works

City Public Service

San Antonio Water Systems

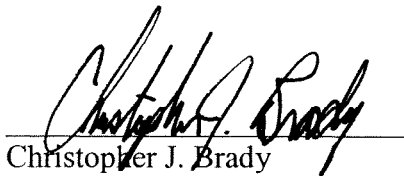
San Antonio Real Estate Council

Citizen's Tree Coalition

SIGNATURES

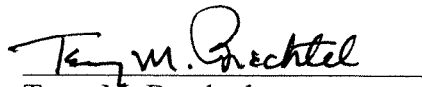


Florencio Peña, Director
Development Services Department



Christopher J. Brady
Assistant City Manager

Approved:



Terry M. Brechtel
City Manager

Tree Preservation Ordinance Comparison

ITEM DESCRIPTION	CURRENT ORDINANCE	STAFF RECOMENDATION	PLANNING COMMISSION RECOMMENDATION
1. Greater value and protection given to "Desirable" species	<p>All trees have equal value 8 inch (DBH*) or greater, 35-523 (d) (1).</p> <p>*dbh: Diameter Breast Height, the average trunk diameter of an existing tree measured at 4 and 1/2 feet above grade.</p>	<p>Protected size and mitigation dependent on "desirability", Table 523-1.</p> <p>Multi trunk: 100% of the largest trunk plus 50% of the remaining trunks.</p> <p>4 small tree species surveyed at 4" dbh.</p> <p>2 additional small species found in creek areas surveyed at 4"dbh. 35-523 (d) and Table 523-1. 50% in setback easements areas. Protected trees the same as above. Table 523-2.</p>	<p>All trees have equal value 6 inch dbh or greater, cedar excluded.</p> <p>Multi trunk: largest two trunks.</p> <p>Texas Persimmon protected at 4" dbh.</p>
2. New Size designation	<p>Two categories of trees; protected 8" or 10" and heritage at 30" dbh. Protected trees mitigated at 1:1 and heritage trees mitigated at 2:1. 35-523 (e) (1).</p>	<p>Three categories: Protected mitigated at 1:1, Significant 2:1 and Heritage at 3:1. Table 523-1 and Table 523-3</p>	<p>Two categories: protected 6" or heritage at 30" dbh. Protected mitigated at 1:1 Heritage mitigated at 3:1</p>
3. Heritage Trees	<p>Preserved at same rate and included with other protected trees. Heritage trees are mitigated at a 2:1 ratio. 35-523(e)(1).</p>	<p>Mitigation of Heritage trees at 3:1 Table 523-2 and 523-3.</p> <p>Heritage trees preserved at 100% over site excluding streets rights-of-way.</p>	<p>Mitigation of Heritage trees at 3:1 (Delete reference to Table 523-2 and 523-3)</p> <p>Heritage trees preserved at 100% over site excluding streets rights-of-way.</p>
4. Tree Clusters	<p>Clusters defined as significant stand, but with no true preservation value.</p>	<p>"Desirable" clusters consisting of 3 or more trees without understory are given 105% credit.</p> <p>"Desirable" clusters consisting of 3 or more trees with understory are given 115% credit. 35-523 (h)(4)A&B.</p>	<p>Same as staff recommendation</p>

ITEM DESCRIPTION	CURRENT ORDINANCE	STAFF RECOMENDATION	PLANNING COMMISSION RECOMMENDATION
5. Tree Preservation Percentage and Size of Protected Trees.	Commercial: 25% of 8" dbh or 30% of 10" dbh or greater trees outside the footprint, easements and rights of way. 35-523(d)(1)(2). Residential: 45% in all setbacks or 50% in setbacks with side setback areas exempt for track development. 35-523(h)(3).	25% over the entire site excluding street rights of ways 35-523(e)(1) & Table 523-2. Class I large species surveyed at 6" dbh. All other large species surveyed at 8" dbh. 35-523(d) & Table 523-41. Residential: 50% in setbacks including easements unless no setback then 20' front and rear. 35-523(h)(3).	25% over the entire site excluding street rights of ways and easements. Table 523-2. Residential: 50% in setbacks excluding easements. If no setback then 20' front and rear. 35-523(h)(3).
6. Root Protection Zone for <u>commercial projects</u> .	1/2 ft per diameter inch with 5 ft minimum. 35-523 (h)(1). Filling & cutting limited to 3".	Same; 35-523(j)(2). Filling & cutting limited to 3".	Same as staff recommendation
7. Root Protection Zone (RPZ) for <u>single-family projects</u> .	Entire setback is RPZ. 35-523(g)(3). Unlimited filling and cutting in RPZ 35-523(h)(2).	RPZ size reduced to that of commercial projects. 35-523(i). Filling and cutting to be limited to 6" in RPZ. 35-523(j)(3). Builder will plant two 2" caliper trees 35-478(b)(1).	Same as staff recommendation
8. Environmentally Sensitive 100 Year Floodplain Areas	No protection in 100-year floodplains.	100% preservation of protected size trees and species. Mitigation same as on areas outside the floodplain. Two additional small species protected.	60% preservation of protected size trees, excluding regional storm water facilities
9. Tree Canopy Coverage. (Landscape Revisions)	25% parking area shade requirement within the streetyard 35-511(e)(1).	25% parking area shade requirement to be extended to areas outside the street yard. 35-511(e)(1).	No provision for shading in parking areas outside the street yard.
10. Tree Warranty	\$100 per project for 3 years allows RPZ violation with guarantying tree survival. Staff must monitor, document, and prosecute as necessary. 35-523(g)(2).	Eliminate as could be staff intensive, no one has used to date and there are alternatives such as approved construction methods in RPZ.	5 Year warranty, warranty bond, or other negotiable instrument equal to the value of tree warranted and will be applicable to residential and commercial projects.

ITEM DESCRIPTION	CURRENT ORDINANCE	STAFF RECOMENDATION	PLANNING COMMISSION RECOMMENDATION
11. Municipal Agencies	Coordinate tree related policies. 35-523(b) and 35-523(m).	Municipal agencies are subject to the tree preservation standards 35-523(b) and 35-523(o).	Same as staff recommendation
12. Oak Wilt Ordinance	Wounded branches and roots caused by new construction must be cut cleanly and painted within a reasonable time. 35-523(h)(3).	Oak Wilt Ordinance requires wounds to be painted within 30 minutes. Also tree care professionals must be licensed with the city and acquire continuing education. Article VIII.	Same as staff recommendation
13. Setback Variance Incentive	No provision; however, the Board of Adjustment may grant variances on waiving minimum lot size and setback. 35-801.	With the concurrence of the Director of Development Services the minimum lot size and setback requirement may be waived to preserve a greater number of trees. 35-253(h)(1).	Same as staff recommendation
14. Tree Credits	No restrictions of location of trees used for tree credits. 35-523(f)(1) and 35-523(e)(3).	Tree credits cannot be obtained for trees in easements, floodplains, drainage areas, or rights-of-way. 35-253(h)(1).	Same as staff recommendation except to omit drainage areas because there is no definition in the Unified Development Code.
15. Trees on Public Property	No provision.	City has right to maintain trees within all public property. No one may damage or remove trees on public property without permission. 35-523(e)(9).	Same as staff recommendation
16. Staging areas sited	No provision.	Establishes an area where equipment and vehicles must be stored or parked during the process of construction. 35-523(j)(5).	Same as staff recommendation
17. Landscaping (Landscape Revisions)	60 points required for compliance with the landscaping standards. 35 pts awarded for the preservation of existing trees. Max 20 pts for trees located in the streetyard and max 15 pts for trees located outside the streetyard. 35-511(d)(1) & (2).	70 points required for compliance with the landscaping standards. 40 pts awarded for the preservation of existing "desirable" trees. Max 30 pts for trees located in the streetyard and max 15 pts for trees located outside the streetyard. 35-511(d)(1) & (2).	Same as staff recommendation
18. Educational Seminars and optional pre-construction meetings.	No provisions.	Requires City Arborist office to offer educational seminars and pre-construction meetings when requested.	Same as staff recommendation

ITEM DESCRIPTION	CURRENT ORDINANCE	STAFF RECOMENDATION	PLANNING COMMISSION RECOMMENDATION
19. Commercial Plans	Options for submittal limited to Tree Preservation Plan with tree survey or Tree Affidavit. 35-B123 (c)(2).	Options include Tree Stand Delineation in lieu of tree survey for Tree Preservation Plan. 35-B123 (c).	Same as staff recommendation
20. Tree Affidavit	Tree Affidavit does not require tree information. 35-477(b)(2).	Tree Affidavit requires an aerial photo. 35-B124.	Same as staff recommendation
21. Tree Stand Delineation option	No provisions.	Use of tree stand delineation process at any stage of development with 25% tree area to be preserved in a natural state, does not require on the ground tree survey. 35-B125.	Same as staff recommendation
22. Residential Plans	Options for submittal limited to Tree Preservation Plan with tree survey or Tree Affidavit. 35-123(c)(1).	Tree Preservation Plan is to be submitted at the platting stage. No additional reviews at the building permit stage. 35-B123(c). Plus plant two additional 2" Desirable Species	Same as current plus planting of two additional 2" Desirable Species trees

City of San Antonio
Proposed Tree Preservation Ordinance

**PLANNING COMMISSION'S RECOMMENDED
AMENDMENTS TO THE CITY COUNCIL**

Amendment Description with Proposed Tree Preservation Ordinance Section Referenced:

- 1. a) Protected value of all tree species at 6" DHB, no protection for Cedar trees (*Juniperus ashei*) and eliminate matrix.**

(d) *Protected Tree Designations and Table 523-1*

- b) Measure multi-trunk species as sum of the 2 largest trunks.**

Appendix A: Definitions & Rules Of Interpretation

- 2. Remove Significant protection category. Keep mitigation 1:1 on Protected Trees, 3:1 on Heritage Trees.**

(d) *Protected Tree Designations and Table 523-1*

(f) *Mitigation /alternative mitigation methods and Table 523-3*

All references to Significant trees throughout document

- 3. Heritage trees to be at 30" dbh for all tree species.**

(d) *Protected Tree Designations and Table 523-1*

- 4. Tree Preservation Percent: 25% of protected trees on the site excluding easements and rights-of-way for commercial development and 50% in setback areas excluding rights-of-way and easements for residential development – Exclude easements from the areas of protection.**

(d) *Protected Tree Designations and Table 523-1*

(e) *Minimum tree preservation requirements and Table 523-2*

- 5. Remove protection for small tree species with the exception for the Texas Persimmon to be preserved at 4" dbh.**

(d) *Protected Tree Designations and Table 523-1*

- 6. Reduce 100 year Floodplain (as defined by the FEMA maps) preservation from 100% to 60% with exemption for City's regional detention facilities.**

(g) *100 Year Flood Plain(s)*

(o) *Public projects*

35-B127 Tree Permit – Public Projects Preservation

- 7. Remove the 25% shading requirement for parking areas outside the street yard (Landscape ordinance amendment to address tree canopy coverage).**

35-511 Landscaping (e) Parking lot shading (1) Applicability

- 8. Include a Warranty option with performance bond/encumbrance on the land for 5 years for exemption from the Root Protection Zone requirements.**

(i) *Root protection zone*