



23-0004M2

TITLE: Conduct a Public Hearing to Consider/Discuss/Act on Amendments to New Article 4, entitled “Tree Preservation,” to Chapter 150, entitled “Unified Development Code,” of the Code of Ordinances, and Accompanying Ordinance

COUNCIL GOAL: Direction for Strategic and Economic Growth
(1C: Provide a strong economy by facilitating a balance between industrial, commercial, residential and open space)

MEETING DATE: September 19, 2023

DEPARTMENT: Development Services - Planning Department

CONTACT: Jennifer Arnold, AICP, Director of Planning
Aaron Bloxham, AICP, Principal Planner

RECOMMENDED ACTION:

- Staff recommends approval of the proposed amendments.

ITEM SUMMARY:

- Staff proposes amendments to the city’s tree preservation processes and requirements in order to improve the function, administration and overall usability of the standards. This includes the creation of a new Article 4 (Tree Preservation) of the Unified Development Code (UDC) and updates to the following:
 - tree permitting requirements;
 - limited purpose tree permit procedures; and
 - violations and penalties.
- The proposed amendments will bring the McKinney code into better alignment with our sister cities, allow for a more consistent and fair application of the standards and penalties, and improve the city’s overall ability to administer the code.

PROPOSED AMENDMENTS

Reorganization

- Staff proposes to reorganize the standards for Tree Preservation into the following sections: Administration, Tree Preservation Standards, Tree Protection Measures, Tree Removal Procedures, Tree Mitigation and Replacement, Violations, and Tree Reforestation Fund.

Tree Permit Requirements

- Staff proposes to expand the tree permitting requirements, expand the exemption/exception allowances, and clarify the use of limited purpose tree permits.
- Currently, tree permits are only required for the critical alteration (i.e. removal) of a protected tree. There is currently no clear process for critically altering trees as part of typical, maintenance activities or activities that should otherwise be exempt from tree permitting requirements.
- As proposed, tree permits will now be required for the critical alteration (i.e. removal) of any tree. However, Staff proposes to expand the list of activities for which this requirement may be exempt and improve the usability of a limited purpose tree permit for certain activities.
- These proposed changes will bring the McKinney code into closer alignment with our sister cities and will allow for improved administration and compliance with tree preservation standards.

Enforcement and Penalties

- Staff proposes an update to the way in which penalties are calculated. Currently, penalties for violating the tree preservation standards are calculated based on the number of protected trees that are critically altered or based on the area of quality trees removed (when individual trees cannot be identified). Under the area calculation, the penalty is \$30 per square foot of (protected) trees removed.
- Staff proposes to update the calculations so that penalties will now be determined based on the area of tree canopy removed. As proposed, the penalty would be \$2,000 for every 1,200 square feet of tree canopy removed.
 - It should be noted that, as part of the August 22 Planning and Zoning Commission meeting, the Commission discussed the modified penalty calculations. While they ultimately recommended approval of the

proposed changes, some noted concerns about ensuring that the new penalty calculation was punitive enough to deter noncompliance with the requirements.

- As a result of these discussions, Staff recommends retaining the existing penalty fees and will take a more comprehensive look at penalty changes in partnership with the city's legal team over the coming weeks and months. As such, the attached amendments reflect clarifications to the penalty process, but does not include any changes to the penalty fees or calculations.

BACKGROUND INFORMATION:

- On November 15, 2022, City Council adopted an ordinance that updated the City's development regulations as part of the New Code McKinney initiative. The initiative focused on improving and updating functionality, processes, and development standards of the code and consolidated all of the development regulations into a single document, known as the Unified Development Code (UDC).
- As part of the ongoing implementation and administration of the new UDC, Staff has been monitoring the code to ensure that necessary amendments, improvements, and updates are noted and considered on an annual basis.

OPPOSITION TO OR SUPPORT OF REQUEST:

- Staff has received no emails or phone calls in support of or opposition to the proposed amendments.

BOARD OR COMMISSION RECOMMENDATION:

- On August 22, 2023, the Planning and Zoning Commission voted 7-0-0 to recommend approval of the proposed tree preservation amendments.

SUPPORTING MATERIALS:

[Draft 8/22 PZ Minutes](#)
[Ordinance \(redline\)](#)
[Ordinance \(proposed\)](#)
[Exhibit A](#)
[Presentation](#)