



Agenda Report

21-1023

Agenda Date: 11/16/2021

REPORT TO COUNCIL

SUBJECT

Waive First Reading and take Action on the Introduction of the Ordinance Amending Chapter 12.35 "Trees and Shrubs" of the Code of the City of Santa Clara to Incorporate New Best Practices and Regulations to Preserve the Urban Forest

COUNCIL PILLARS

Deliver and Enhance High Quality Efficient Services and Infrastructure, and Promote Sustainability and Environmental Protection

BACKGROUND

Urban forests are dynamic ecosystems that provide critical benefits to people and wildlife in our community. They help to filter air and water, control storm water, conserve energy, increase property values and provide animal habitats.

As trees grow, they help combat climate change by removing carbon dioxide, a powerful greenhouse gas, from the air, storing carbon in the leaves and soil, and releasing oxygen into the atmosphere. Updating the existing Trees and Shrubs ordinance would help protect and expand our current urban forest and align with the policies in the City's Climate Action Plan.

Santa Clara City Code Chapter 12.35 - Trees and Shrubs regulates the planting, maintenance, protection, and removal of trees in the City. This chapter of the Code was originally adopted in 1960 and currently it does not adequately incorporate updated urban forestry standards, including several best practices and procedures in tree maintenance. In addition, nature-based solutions, such as tree plantings and vegetation management, have been widely identified as a key component to a balanced climate action strategy and should be reflected in our City Code to align with the City's Climate Action Plan. The City of Santa Clara 2010 - 2035 General Plan identifies preservation of all City-designated Heritage Trees, none of which are referenced in the Code. The Arbor Day Foundation has recognized the City of Santa Clara as a Tree City USA for 34 consecutive years and given the City a Growth Award the last 21 consecutive years. The Arbor Day Foundation has identified that an update to the City's Trees and Shrubs Code would enhance future Growth Award activities. Furthermore, the current Code does not have provisions for the preservation of specific native tree species or trees of a certain size that are planted on private property.

The current ordinance contains only the following sections:

- 12.35.010 Planting in public places - Powers and duties of Parks and Recreation Commission - Generally
- 12.35.020 Alteration or removal - Permit required
- 12.35.030 Attaching wires, signs, posters, etc. - Prohibited

- 12.35.040 Trees or shrubs becoming hazardous or injurious to public ways - Notice to abate - Generally
- 12.35.050 Failure to comply - Abatement by City

DISCUSSION

The Department of Public Works led a collaboration with staff from the Parks & Recreation Department, Community Development Department, City Attorney's Office and City Manager's Office to modernize the Trees and Shrubs chapter of the City Code that helps protect existing trees and plant new trees to preserve the City's urban forest.

The updated ordinance (Attachment 1) bolsters the protection of trees on both public and private property. Sample ordinances were collected from local municipalities including the Cities of Cupertino, Mountain View, Sunnyvale, Palo Alto, Milpitas, and San Jose to build a baseline reference of current tree protection standards in Santa Clara County (Attachment 2).

The proposed ordinance defines protected trees and provides protection for native tree species and trees meeting certain size criteria. It also lays out specific criteria to be used to evaluate the removal of protected trees to add transparency to the process. The sections below provide an overview of the significant changes in the updated ordinance.

City Tree Planting, Maintenance, and Removal

Section 12.35.050 states that the City controls all tree planting at parks, public properties, and public rights-of-way. The City controls the maintenance and removal determinations of City trees. Private property owners are responsible for watering street trees adjacent to their property and removing street tree debris generated by normal growth cycles from sidewalks and private property.

The proposed ordinance does not require all single-family homes to have a street tree, which is consistent with other cities. However, if a street tree is removed and that general location is suitable to support a new street tree, the site will be replanted with a suitable tree species from the City approved tree list.

Street Park Strip Landscaping

The current City Code requires a permit to plant in a public place but does not provide any additional details. Section 12.060 of the proposed ordinance enables residents to plant shrubs and ground cover (not trees) in City owned street park strips without a permit with the stipulation that the property owner maintain it. The proposed ordinance stipulates that the proposed landscape does not interfere with the access to, or use of, any City right-of-way for vehicular, bicycle or pedestrian travel. The City has the right to require the property owner to prune or remove any plant in the street park strip that is determined to be a nuisance or remove it at the expense of the property owner.

Heritage Trees

The current City code does not define or address heritage trees. The updated ordinance defines a Heritage tree as a tree designated by the City Council as significant due to its age, commemoration of an event, or memory of a person or event. The Heritage tree definition in the proposed ordinance is consistent with the definition in the General Plan. Heritage trees are protected under Section 12.35.090 and City Council is responsible for the final review and determination on applications for Heritage tree removals.

Protected Tree Designations

Section 12.35.080 protects the following trees (Protected trees):

- Heritage trees
- Specific tree species with a diameter of 12 inches or more when measured at 54 inches above natural grade on private property:
 - Aesculus Californica (California Buckeye)
 - Acer Macrophyllum (Big Leaf Maple)
 - Cedrus Deodara (Deodar Cedar)
 - Cedrus Atlantica 'Glaucua' (Blue Atlas Cedar)
 - Cinnamomum camphora (Camphor Tree)
 - Platanus Racemosa (Western Sycamore)
 - Quercus (native Oak tree species), including:
 - Quercus Agrifolia (Coast Live Oak)
 - Quercus Lobata (Valley Oak)
 - Quercus Kelloggii (Black Oak)
 - Quercus Douglasii (Blue Oak)
 - Quercus Wislizeni (Interior Live Oak)
 - Sequoia Sempervirens (Coast Redwood)
 - Umbellularia Californica (Bay Laurel or California Bay)
- Approved development trees that are approved or directed to be planted as a condition of approval for development permits.
- Any tree species which has a trunk with a diameter of 38 inches or more when measured at 54 inches above natural grade. Unless an exception is granted under 12.35.090.
- Any multi-branched tree species which has major branches below 54 inches above natural grade with a diameter of at least 38 inches measured just below the first major trunk fork. Unless an exception is granted under 12.35.090.

Protected Tree Removal Permit Request Evaluation Criteria

Section 12.35.090 requires the maintenance and preservation of Protected trees in accordance with ANSI A300 Standards and that all work follows the tree care Best Management Practices published by ISA necessary to protect the vitality of the tree. The Section outlines the process for requesting and evaluating removal requests of Protected trees by the Community Development Department. Removal application requirements include a drawing, a written explanation of why the tree(s) should be removed, a certified arborist report, owner approval, photographs, and any additional criteria needed to evaluate the application.

The Ordinance requires replacement trees to be planted as a condition of issuance of a tree removal permit, or as any discretionary permit, issued by the Community Development Department for development or redevelopment that involves the removal of a tree at the following replacement ratios:

Dead Tree or Unsuitable Tree (e.g., Eucalyptus, Liquidambar, Pine, Tree of Heaven, Tulip tree, and Palm tree)	1:1 Replacement ratio, minimum 15 gallon
Single-Family Residence	1:1 Replacement ratio, minimum 15 gallon
Multi-Family / Commercial / Industrial	2:1 Replacement ratio (24" box) OR 4:1 Replacement ratio (15 gallon)

Where it can be demonstrated that it is not feasible to provide a replacement tree on-site, the applicant may work with the City to propose an alternative means of replacement (e.g., planting of a street tree per City direction), subject to the approval of the Director of Community Development.

In limited situations a removal permit for a Protected tree will be granted only after making at least one of the following findings:

- That the tree(s) are irreversibly diseased, are in danger of falling, can cause potential damage to existing or proposed essential structures, or interferes with private on-site utility services and cannot be controlled or remedied through reasonable relocation or modification of the structure or utility services
- That the location of the tree(s) restricts the economic enjoyment of the property by severely limiting the use of property in a manner not typically experienced by owners of similarly zoned and situated property, and the applicant has demonstrated to the satisfaction of the Community Development Department that there are no reasonable alternatives to preserve the tree(s)
- That the tree(s) are a detriment to the subject property and cannot be adequately supported according to good urban forestry practices due to the overplanting or overcrowding of trees on the subject property
- That the trunk of the tree(s) is five feet or less from the existing residence, secondary unit, or garage
- That the trunk of the tree(s) is five feet or less from the centerline of a below-ground utility line or pipe
- That the tree(s) is on a private property, single-family lot and is an unsuitable species for single-family lots, including: Eucalyptus Globulus (Blue Gum), Liquidambar Styraciflua (Sweet Gum), Pinus (Pines), Ailanthus Altissima (Tree of Heaven), Liriodendron Tulipifera (Tulip tree), Ulmus Pumila (Siberian Elm), and Palm trees

Construction and Development

Section 12.35.100 outlines tree protection during construction and development. When development occurs, the developer must submit a tree survey by a certified arborist, submit replanting plans if a Protected or City tree is proposed to be removed, and submit a tree protection plan which includes protection measures during and after construction. The Ordinance requires the replacement of trees at ratios described in Section 12.35.090 above or through alternative means, subject to the approval of the Director of Community Development. The Community Development Department shall review all plans and have authority to require the reasonable alteration of a proposed plan to retain the trees and may require additional mitigation.

Prohibited Acts

Section 12.35.110 prohibits any actions that could damage the health of any City tree or Protected tree.

Penalty for Violation

Section 12.35.140 summarizes the violation penalties and associated procedures. A violation of any of the provisions of the chapter may result in a penalty in a sum not to exceed five thousand dollars (\$5,000), and the City may assess an additional penalty in the amount of the monetary value of the tree.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(2) as a general policy making activity.

FISCAL IMPACT

There was no fiscal impact associated with this report.

COORDINATION

This report has been coordinated with the Department of Public Works, City Attorney’s Office, Parks & Recreation Department, Community Development Department and City Manager’s Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City’s official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City’s website and in the City Clerk’s Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk’s Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>>.

RECOMMENDATION

Waive First Reading and Approve the introduction of the Ordinance amending Chapter 12.35, entitled “Trees and Shrubs” to incorporate new best practices and regulations to preserve the urban forest.

Reviewed by: Craig Mobeck, Director of Public Works

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Ordinance
2. Comparison of Local City Tree Ordinances