



City Council Staff Report

From: City Manager
Report Type: STUDY SESSION
Lead Department: Public Works

Meeting Date: June 19, 2023

Report #:2306-1599

TITLE

Tree Protection Ordinance Year One Implementation Update

RECOMMENDATION

Staff is not recommending any action at this time. This report is being provided as an informational update on Tree Protection Ordinance implementation.

EXECUTIVE SUMMARY

Title 8 of Palo Alto Municipal Code (PAMC) contains regulations governing street trees, shrubs and plants (Chapter 8.04), weed abatement (Chapter 8.08), and tree preservation and management (Chapter 8.10).

The Tree Protection Ordinance updates made in 2022 focus on implementation of Council-approved policies contained in the 2030 Comprehensive Plan (Natural Environment Chapter¹), and the Urban Forest Master Plan². Additional code updates include changes prompted by State law, specifically Executive Order B-29-15³, also known as the Model Water Efficient Landscape Ordinance. Changes made to the ordinance range from significant policy changes, like expanding the types of protected trees and revising allowances for tree removal, to more clerical updates, like updating authorized officers and accounting for recent changes in other development-related codes.

Implementation of the new ordinance began in July 2022 and is still in progress.

¹ Reference, 2030 Comprehensive Plan

<https://www.cityofpaloalto.org/Departments/Planning-Development-Services/Long-Range-Planning/2030-Comprehensive-Plan>

² Reference, Urban Forest Master Plan

<https://www.cityofpaloalto.org/files/assets/public/public-works/tree-section/ufmp/urban-forest-mp-after-adoption-reduced-2-25-19-complete.pdf>

³ Reference, State Model Water Efficiency Landscape Ordinance

https://www.ca.gov/archive/gov39/wp-content/uploads/2017/09/4.1.15_Executive_Order.pdf

BACKGROUND

On June 6, 2022, the City Council voted⁴ to update the Tree Protection Ordinance to complement current policy documents and strengthen requirements and procedures for when protected tree removals are proposed. The first Tree Protection Ordinance was added to the Palo Alto Municipal Code in 1951 and its last substantive update prior to the 2022 update was in 2001. Since then, the City implemented new policy documents such as the 2015 Urban Forest Master Plan (UFMP), which contains goals and policies to sustain and enhance Palo Alto's Urban Forest. Many of these policies and goals are also tied to sustainability efforts contained in the 2030 Comprehensive Plan and the Sustainability and Climate Action Plan (S/CAP).

During the adoption of the updated Tree Protection Ordinance in June of 2022, Staff was directed by Council to review the ordinance with the Parks and Recreation Commission (PRC) and Planning and Transportation Committee (PTC) near the one-year mark. Once those reviews were completed, staff was to return to Council with any proposed changes or additional updates to the Tree Protection Ordinance. Staff is providing this update due to Council and public interest after the recent unprecedented winter season. Staff plans to meet with PRC and PTC in the coming months to review the first year of the ordinance and discuss any proposed updates or adjustments that would then come before Council in the fall.

The updated Tree Protection Ordinance went into effect on July 21, 2022. It includes changes that protect more native California species, promote drought resistant and tolerant species, and protect most other tree species over a certain size. Under the updated ordinance, the definition of a Protected Tree has been expanded to include the following:

Specific native species protected at 11.5" diameter at breast height (DBH):

- Acer macrophyllum (Bigleaf Maple)
 - Calocedrus decurrens (Incense Cedar)
 - Quercus agrifolia (Coast Live Oak)*
 - Quercus douglasii (Blue Oak)
 - Quercus kelloggii (California Black Oak)
 - Quercus lobata (Valley Oak)*
- Species protected at 18" DBH:
 - Sequoia sempervirens (Coast Redwood)*
- Proposed protected species at 15" DBH:
 - includes all species not listed above except:
 - Invasive species per Cal-IPC
 - High Water Users per WUCOLS (Excluding Redwood)
- Other protected tree categories:
 - Any tree designated for protection during review and approval of a development project

⁴ City Council, 6/6/2022, Agenda Item #13, SR# 14355

<https://portal.laserfiche.com/Portal/DocView.aspx?id=59517&repo=r-704298fc>

- Any tree designated for carbon sequestration and storage and/or for environmental mitigation purposes
- Any replacement mitigation tree or other tree designated to be planted due to the conditions listed in this ordinance

* species protected prior to July 21, 2022

Using a dataset of almost 10,500 private trees as a representative sample, staff used an average of several calculation methods contained in the 2017 California Urban Forest Study by Greg McPherson⁵, to estimate species and size distribution for our entire private tree urban forest.

Total Urban Forest Tree Estimates

Total Trees Estimate (excluding WUI area) 600,000

All Private Proposed Protected trees based on total trees #

Species	Count	%
COAST LIVE OAK =/> 11.5 DBH	35,580	5.93%
VALLEY OAK =/> 11.5 DBH	5,640	0.94%
REDWOOD =/> 18" DBH	40,500	6.75%
BIG LEAF MAPLE =/> 11.5" DBH	60	0.01%
INCENSE CEDAR =/> 11.5" DBH	1,860	0.31%
BLUE OAK =/> 11.5" DBH	240	0.04%
CA BLACK OAK =/> 11.5" DBH	60	0.01%
ALL OTHERS =/> 15" (Minus CalIPC/WULCOS)	140,160	23.36%
New Protected Tree Total	224,100	37.35%
<i>Old Protected Tree Total</i>	<i>81,720</i>	<i>13.62%</i>

ANALYSIS

Implementation of the new Tree Protection Ordinance components by staff began after passage by Council in June 2022 and is ongoing. The sections below describe the most significant changes contained in the updated ordinance and provide summary data illustrating some of the impacts.

Tree Protection Ordinance Component Updates:

The expanded definition of protected trees and updated acceptable reasons for removing protected trees both during and outside of development are likely the most significant changes included in the updated ordinance. Any projects requiring planning approval and any building permits not requiring planning approval that were initially submitted after July 21, 2022 are subject to the new requirements. Because of this, many of the applications reviewed for Tree

⁵ McPherson G.E., 2017. The structure, function, and value of urban forests in California communities. Urban Forestry & Urban Greening 28 (2017) 43-53;
https://www.fs.usda.gov/psw/publications/mcpherson/psw_2017_mcpherson005.pdf

Protection Ordinance compliance during the last year by Urban Forestry staff were subject to the previous ordinance.

Protected Tree Removal Permits

Tree Removal Permits historically covered only protected tree removals not associated with a development project. To better capture and analyze tree removal data, once our new Tree Permit Workflow is active all protected tree removals, both tied to development and outside of development, will be captured as Tree Removal Permits.

Tree Removal Permits under updated ordinance: 7/21/2022 to 5/31/2023

- 66 Tree Removal Permit applications (Projected 150 total for calendar year 2023)
 - 54 approved
 - 10 Emergency permits/storm damage
 - 15 Dead/dying
 - 8 damaging foundations or eaves of homes
 - 11 no decision rendered
 - 3 denied
 - 1 canceled
 - 7 pending additional information or inspection
- 39 Trees proposed for removal were previously protected under old ordinance
- 51 Trees proposed for removal are newly protected under new ordinance

Tree Removal Permits under old ordinance: 7/21/2021 to 5/31/2022

- 36 Tree Removal Permit applications (52 total for calendar year 2022)
 - 32 approved
 - 7 damaging foundations or eaves of homes
 - 9 dead/dying
 - 1 denied
 - 3 no decision rendered/ pending additional information

Tree Removal Permits under old ordinance, same period for 20/21: 7/21/20 to 5/31/21

- 44 Tree Removal Permit applications (43 total for calendar year 2021)
 - 33 approved
 - 6 damaging foundations or eaves of homes
 - 18 dead/dying
 - 1 denied
 - 10 no decision rendered/ pending additional information

Review of Development Applications for Tree Protection Ordinance Compliance

As more trees are classified as protected status under the new ordinance, many development applications that would previously not have required in depth review by Urban Forestry staff are now subject to review for compliance with the Tree Protection Ordinance.

The numbers below show a 14% increase in the number of applications routed to Urban Forestry during the first 10 months of the new ordinance compared with the same time period the year before.

As we move forward into Fiscal Year 2024, many of the projects subject to the old ordinance will have completed reviews, been issued permits, or expired. Staff anticipates that the number of permits routed to Urban Forestry will continue to increase over the next year.

Urban Forestry Reviews for Planning & Development: 7/21/2022 to 5/31/2023

- 166 Planning applications
- 608 Permit applications (Building, Encroachment, Street)

Urban Forestry Reviews for Planning & Development: 7/21/2021 to 5/31/2022

- 118 Planning applications
- 560 Permit applications (Building, Encroachment, Street)

Urban Forestry Reviews for Planning & Development: 7/21/2020 to 5/31/2021

- 99 Planning applications
- 349 Permit applications (Building, Encroachment, Street)

New Maintenance of Protected Trees Notification Requirement

Under the updated ordinance, significant maintenance of any protected status tree requires notification to the City and the general public. This requirement helps to inform staff and the public about scheduled tree work. Having information about scheduled tree maintenance available often allows staff to respond quickly to residents when inquiries are made about tree work in their neighborhood. This has been aided through the creation of an online form by City staff. When a tree owner plans to maintain a protected tree, they simply fill out the online form. Some key components of this requirement:

- This is not a permit, there is no fee required, and the City does not approve or deny.
- The form instructs tree owners about the maintenance requirements for protected status trees, and they must agree to follow best arboricultural practices when maintaining protected trees.
- A total of 55 maintenance notifications were submitted between Sept 1, 2022, to May 1, 2023.

New Posting Requirements & Appeal Process

Major updates to the public notification process for protected tree removal permits were included in the updated tree ordinance. The largest change included a postcard notification process similar to what was in place for certain Planning Applications. When a Protected Tree Removal Permit is applied for, a direct mailed postcard is sent out to all addresses within 300 feet of the property containing the tree. A second postcard is sent out when a decision on the permit is made.

- Residents often reach out city staff for more information after receiving postcards.
- No formal appeal of a Protected Tree Removal Permit has been filed yet.
- New tree removal notification webpage has been created to accommodate the dual notice requirements of application received and decision rendered.

Posting for public tree removals by City staff and for private protected trees removed under the City's Right Tree, Right Place program (RTRP) are done as a courtesy to surrounding residents and are not required. These two types of protected tree removals are not subject to appeal under the ordinance.

Moving From Paper Forms to Electronic Submittal of Protected Tree Removal Permit

Applications

Until recently, all Tree Removal Permit applications have been submitted in hard copy or by email utilizing a one-page PDF application. These application submittals must then be uploaded into the City's Accela permit system manually. Urban Forestry staff has been working with Planning & Development staff to launch a new Tree Removal Permit workflow in Accela that will eliminate these extra unnecessary steps.

- New Tree Removal Permit workflow in Accela Permit System to be launched in coming months.
 - Currently in system testing phase with Accela
 - Will streamline the process reducing/eliminating paper forms
 - Allows assignments of specific steps to different City staff. For example, noticing tasks can be assigned to a specific staff member while inspection of the tree can be assigned to a City staff arborist.
 - New process will collect better data on trees included in Tree Removal Permit applications.
 - Will allow staff to track completion of any required replacement plantings.
- The "Tree Protection, It's Part of the Plan" sheet (also known as the T-1 Sheet⁶) and the required Tree Disclosure Statement have been updated to reflect new ordinance.
 - Exemption included in Tree Disclosure Statement for completion by certified arborist for Accessory Dwelling Unit (ADU) only projects to comply with State Law.
 - Standard Urban Forestry Conditions have been added to the T-1 sheet to simplify the Planning Departments conditions of approval process.

Tree Ordinance Components in Progress

There are several tree ordinance components that have yet to be implemented. These items are listed below in order of priority.

- Tree and Landscape Technical Manual (TLTM)
 - Update in process, ready for department review by end of FY.
 - This manual is geared toward contractors, builders, and tree care companies
 - Tree Protection Plan Sheet (T1) and Tree Disclosure Statement already updated
 - Working on plan to translate into Spanish after final draft approved.
- Designated Arborist system
 - Not yet implemented, will finalize after TLTM

⁶ Draft Updated T-1 Tree Protection Sheet (05/03/2023)

<https://palalto.admin.opencities.com/files/c81d7199-3af1-42e5-b5eb-ef97d1a5c93f/DRAFT-T1-05-03-23.pdf>

- Until implemented, any certified arborist may complete submittals for development projects.
- Example criteria for inclusion to be created
- List members can be removed due to non-compliance on submittals
- Annual or Biannual updates to list

2023 Storm Response:

Portions of the Tree Protection Ordinance implementation were delayed this winter due to the series of unprecedented storms that occurred between January and March of 2023.

The series of storms the Bay Area has seen this winter starting on December 31, 2022 was very unusual. These storms included high rainfall totals in very short time spans and strong winds from non-prevailing directions with little or no time for recovery in between events. While each tree and its growing location are unique and there are many factors that can contribute to whether a tree will survive an extreme weather event, the highly saturated soils from heavy rains followed by high winds have been contributing factors to many of the whole tree failures we have seen this winter.

For perspective, rainfall between December 31, 2022 and March 22, 2023 has resulted in four of the top 20 highest recorded peak flows in San Francisquito creek. Response and clean up to this series of storms began on January 1, 2023 and was mostly resolved by the end of April 2022. Staff that would have been working to complete some components of the updated Tree Protection Ordinance were instead responding to storm related issues and recovery tasks.

Urban Forestry Winter 2023 Storm Statistics: 1/1/2023 to 4/30/23

- 10 emergency tree removal permits issued
- 243 Limb failures/pickups (206 City / 37 private)
- 6 private trees removed (trees that failed and affected the public right-of-way)
- 43 City trees removed
- 50 tree related electric outages
- 563 tons of green debris removal

For comparison, in the same time period in 2021, staff responded to 40 limb failures and 5 City trees were removed.

FISCAL/RESOURCE IMPACT

This update on Tree Protection Ordinance implementation does not focus on Resource Impacts.

STAKEHOLDER ENGAGEMENT

Public outreach regarding the updated ordinance has been ongoing since the adoption of the updated ordinance in June of 2022. The majority of public outreach has been conducted by City staff and the City's urban forestry non-profit partner Canopy. Below is a list of outreach efforts that have been completed or are currently in progress.

- City Urban Forestry webpages have been updated to reflect new ordinance.
 - New Tree Ordinance Information page created and expanded.

- New Tree FAQs⁷ created to address many questions about the tree ordinance and storm related tree issues.
- Creation of a new general trees email address (trees@cityofpaloalto.org) to simplify contacting the Urban Forestry Section.
- Canopy webpages updated to mirror new information info on City web pages.
- Canopy tree walk flyers updated to highlight Tree ordinance updates.
- Canopy Tree-news has released 3 Issues (June 2022, January 223, April 2023) that speak about the updated tree ordinance.
 - Tree news issues reach approximately 4500 subscribers.
- An email distribution list of arborists, tree care companies and Urban Forestry advocates has been compiled by city staff and informational updates are being sent periodically. These updates have been added to the Tree Ordinance Information webpage as PDFs⁸. Staff is in the process of translating these updates into Spanish language versions as well. Anyone can be added to the list by email request sent to trees@cityofpaloalto.org

The following outreach components are still in development and will be put in place in the coming months.

- A direct mailed Postcard is to all Palo Alto residents providing information about the updated TPO.
- Utility bill insert and email highlighting new ordinance information.
- Informational ads in local printed and electronic press.
- Live webinar sessions targeted at local arborists and tree care companies to review new ordinance requirements. These will be recorded and posted to the city website.

ENVIRONMENTAL REVIEW

This update on the implementation of the Tree Protection Ordinance is not subject to the California Environmental Quality Act.

APPROVED BY:

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⁷ New Urban Forestry Trees Frequently Asked Questions,
<https://www.cityofpaloalto.org/Departments/Public-Works/Public-Services/Palo-Altos-Urban-Forest/Frequently-Asked-Questions>

⁸ Example of a Tree Ordinance Information Update,
<https://www.cityofpaloalto.org/files/assets/public/public-works/tree-section/new-folder/palo-alto-tree-ordinance-information-updates-1-protected-trees.pdf>