**Draft UFAC Tree Ordinance Recommendations**

**Significant Remaining Issues**

**2015**

The City of Dallas Urban Forest Advisory Committee worked diligently with city officials and many interested parties in the public and private sector to develop a consensus regarding recommended changes to the Dallas Landscape and Tree Ordinances. The public was invited to three public meetings and the recommendations were presented to city staff and the Quality of Life Committee. Issues considered which could not reach a consensus between all parties were considered to be “significant remaining issues.” After further deliberation by the Urban Forest Advisory Committee, recommendations were developed based on the best interest of our urban forest and quality of life.

**PD’s (51A-10.121)**

**Issue:** There has been a long history of granting Planned Developments (PD) exceptions to Article 10 (our “tree ordinance”), which avoids the stated purpose of the ordinance and often allows many trees to be removed without replacement.

**Recommendation**: Require all PD`s to fully comply with the tree preservation and landscape ordinance regulations and adhere to the stated purpose of a PD in “preserving significant natural features”. The requirement must be noted in the ordinance language.

**Two (2) Acre Exceptions for Single Family or Duplex Use (Section 51A-10.130(a)/ 51A-10.132/ 51A-10.135)**

**Issue:** Developers or builders purchase existing homes (under 2 acres) and require that the homeowner remove existing trees, before they will purchase the property. Excessive tree removal by a homeowner or property owner can cause a loss in the quality of life in a neighborhood.

**Recommendations:**

* The city should require full compliance with Article 10, as well as request a tree protection plan for all trees on a site under 2 acres, **as soon as** a property becomes vacant or unoccupied for a length of time.  “Vacancy” and the term “unoccupied” must be legally defined within city codes to limit the amount of time a property can be unoccupied before it is considered “vacant.” The city must enforce the ordinance when a house or structure is removed from a site because it is clearly vacant.
* A builder/developer should not be allowed a demo or grading permit without an in-tandem application and approval of a tree survey/protection plan and any required removal permits for existing trees. These two items help to ensure the intent of the ordinance is followed but stops short of regulating trees on private property.
* Neighborhoods with significant support for preserving larger trees are encouraged to establish a “conservation district” directed specifically toward tree preservation on private property. We recommend that the city establish a city wide overlay that sets the framework for all future conservation districts. It require a neighborhood to establish clear, long term management plan for a conservation district as well as a statement that all requires management plan activities to run concurrent with the current property owner(s).

**Clear-cutting (Section 51A-10.132/51A-10.136)**

**Issue:** Clear cutting is the removal of the vast majority, or all, of the existing trees from a property, with or without the appropriate removal permits (legal or illegal). This includes poisoning, damaging or adding fill soil (or other materials) around the root system of trees. The general public does not know the difference between protected and unprotected species but are rightfully upset when most all trees are removed on a project. The existing Ordinance does not control the detrimental effects of clear-cutting.

 **Recommendations**:

* Provide for mandatory, rather than optional, full compliance with all parts of the Integrated Storm Water Management document (iSWM). Full compliance would reduce the number of potential cases of legal clearcutting.
* The “Sustainable Sites Initiative” is a national certification process beyond LEED certification for buildings which focuses on the many benefits of sustainable landscapes. Incentives can be offered for the four primary criteria; ecosystem services, resiliency, human health and water. The use of incentives to encourage tree preservation may help reduce the potential for clearcutting in the future.

 **Background:** ISWM is the acronym for Integrated Storm Water Management and it was developed by the North Texas Council of Governments and some of the Vision North Texas experts in an effort to show cities what they should be doing (<http://iswm.nctcog.org/index.asp>).  Some cities have adopted the document as part of their policy but Dallas has not.  A part of the problem is that Dallas does not allow water to run off of one property onto another adjoining property.  As a result, properties with significant changes in elevation (like the southern sector) must remove most or all trees to grade the property to force water to drain to the street or ally.  In some cases, they pile soil around the trees to achieve the draining requirements but kill the trees in the long term.  ISWM allows some runoff on adjoining lots as long as it is not an excessive amount, which saves trees.

**Topping (ITEM 23-51a-10.101 Definition of removal or seriously injury)**

**Issue:** Topping trees involves the removal of all top growth, typically to a stumped limb and is much different than proper pruning. Removing all the top growth damages the structure of the tree and often causes the death of trees within five (5) years of the act. The topping of trees is against all arboricultural standards and occurs primarily to open a view to a sign, shopping center, building or other features.

**Recommendation:** The tree ordinance language should add a formal definition of topping a tree as causing "irreparable damage" to the heath and structural integrity of a tree based on arboricultural industry standards. Cases in which irreparable damage to trees may be in question should be deferred to the City of Dallas Chief Arborist for a final decision. Require full mitigation for protected species of trees that are topped.

**Expanded use of Reforestation Funds**

**Issue:** Reforestation Fund rules prevent the use of funds for anything other than the purchase of trees to be planted on public properties or rights of way.

 **Recommendation:**

* Alter regulations to provide monetary support for the establishment an office or division of urban forestry and hire a director or manager for the group. This offers many benefits to our urban forest as well as all citizens. However, monetary support should be limited to five years to avoid significant depletion of funds.
* Regulations should allow funds to pay for trees on private property where the urban heat island is a problem as long as there is an agreement for the property owner to maintain them for three years.

**Background:** For the forestry department to have teeth, it needs to be headed by a director who reports to an assistant city manager.  As a compromise, at least a manager III reporting to a director and preferably not Building Inspection. The hierarchy is Assistant City Manager, Director, Assistant Director, Manager III.  A director spot would mean a department would be created that solely focuses on forests.  Director gets 165K but the range starts about 85k. AS start around 85K and manager III about 75K.

**Increase the number of trees planted in any part of Dallas known to be an urban heat island area**

**Issue:** Areas shown to be affected by the Urban Heat Island Effect (UHI) according to previous thermal image studies of Dallas, cause an increased in temperature and the associated energy costs but also add greatly to our air quality woes and more, according to the EPA. Projects in areas shown to be inside a UHI problem area, must be planting more trees to help offset some of the negative impacts.

**Recommendation:** Since the UHI problem has a direct effect on human and environmental health, this is a public health issue. As a result, the city and possibly the county should offer to offset the additional tree costs in some form or fashion, such as tax incentives, abatements or grants geared toward improving public health.

**Ensure tree mitigation funds are paid to the city**

**Issue:** Developers create plans and remove trees but later file bankruptcy, go out of business or leave town and tree mitigation funds are lost.

**Potential option:** Require all mitigation payments be made up front by offering a bond, deed of trust, or letter of credit for compliance regarding all required tree mitigation on all sites, before the final project plans are approved by the city.

**Raise the per diameter inch value of trees**

**Issue:** The current value of trees per diameter inch was established in 1995 and is not consistent with current industry standards.

**Recommendation:** Raise value of trees to $175 per diameter inch. Ensure that only the chief arborist has the authority to determine the value of any trees and not the “building official” as currently noted. The basic dollar value of trees was established when the ordinance was enacted but it does not accurately reflect the current value. Austin recently went to $200 per diameter inch and we are currently at around $100. It should be noted that a change in the value requires a simple staff decision rather than a change in the ordinance language or council approval.

**The designation of historic tree status**

**Issue:** The current ordinance recommendations rely on the City Council to declare a tree or trees as historic but the council is not an authority on history nor are they educated on about tree related subjects. They also do not have the time to deal with such designations.

**Recommendation:** The Texas Historic Tree Coalition is a nonprofit statewide organization with over 20 years of experience in dealing with historic tree affairs. The coalition’s standards ensure that research was completed to qualify a tree as truly historic. The Dallas Landmark Commission is a recognized authority that could work with the coalition to offer a more formal approval of all historic tree designations provided by the coalition.

**City arborists conflict of interests and authority**

**Issue:** It is a conflict of interests to have city arborists responsible for enforcing the tree ordinance working under the department of sustainable development services with limited authority.

**Recommendation:** Establish a division or office of urban forestry that works in the best interest of our forest and trees rather than development, as with most other large cities. Once the arborists are moved to this division or office, provide the chief arborist with the authority to alter tree and plant species requirements on a plan as well as provide credit for transplanting trees on a site.

**Grading and floodplain fill permits**

**Issue:** A floodplain fill permit often allows an excessive amount of fill soil around trees causing their loss in the future. A grading permit often causes the loss of trees to comply with drainage requirements rather than finding a way to provide proper drainage with minimal impact to trees.

**Recommendation:** All grading and floodplain fill permits should be approved by the chief arborist and require a tree survey as part of the submittal. All due consideration must be provided for trees that will most likely be affected in a negative way by fill soil being placed around them. Require full mitigation for negatively affected trees which are a protected species of tree or are designated as a protected tree or trees.

**Escarpment ordinance approval is not consistent with its purpose and it affects trees**

**Issue:** The escarpment ordinance application approval by the city is often not consistent with its purpose and causes the loss of trees. The stated purpose is very clear; “grading must be planned so as to have the least disturbance on the area’s natural topography, watercourses, vegetation and wildlife.” Furthermore; “no cleared, graded, or otherwise disturbed land may be left without temporary protective stabilizing cover.” according to 5.207, Mandatory Performance Standards.

**Recommendation:** All escarpment ordinance applications must be approved by the chief arborist and require a tree survey as part of the submittal. As with grading and floodplain fill permits, all due consideration must be provided for trees that will most likely be affected in a negative way by fill soil being placed around them. Require full mitigation for negatively affected trees which are a protected species of tree or are designated as a protected tree or trees.

**Manage the spread of deadly tree pathogens**

**Issue:** No provision is included in recommended changes to control the spread of deadly tree pathogens.

**Recommendation:** The tree ordinance should require enacting internal (staff) policies or controls to prevent the spread of any significant pathogens by all city employees, in all departments working on or near trees.

Additionally, any city policies regarding the management of Power Company and utility tree pruning should require best management practices to reduce the spread of any deadly tree pathogen. This issue should be addressed in city utility codes and ensure any policy applies equally to all public/private utilities.

**Add Hackberry/Sugarberry to the list of trees that should be protected on city property**

**Issue:**  Hackberry (Celtis occidentalis), Sugarberry (Celtis Laevigata) and Netleaf Hackberry (Celtis reticulata) are rated as the number one local tree by the Audubon Society due to the profuse amount of seeds they offer to many types of wildlife. The fact that they are prolific in our region is a testament to being a favorite of our wildlife. Current research also shows they are low VOC emitters and moderate in their ability to sequester pollutants from the air (carbon dioxide, carbon monoxide, ozone, nitrogen oxide, and sulfur dioxide).

**Recommendation:** Add these Hackberry species to a list of trees that are protected and preserved when they are on public property.

**Impact fees do not accurately reflect the loss of a natural area and trees**

**Issue**: Disturbing a natural area directly affects wildlife habitat, the quality of life in an area, and often causes the loss of trees.

**Recommendation:** Unfortunately, there is no formula to calculate the exact dollar loss in overall value to society as well as our environment when a natural area is permanently lost. However, there is undoubtedly a direct impact that should be mitigated by using the impact fees to preserve natural areas or better manage those in close proximity to affected areas. The city often accepts the maintenance of conservation easements as well as small natural areas but lacks the budget to adequately maintain the properties. Rather than place this burden on taxpayers, let those that disturb a natural area help to purchase or maintain other natural areas through impact fees.