

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date	February 23, 2009
	Agenda Item No. 27 Roll Call No. <u>09-</u> Communication No. <u>09-109</u> Submitted by: Larry Hulse, Community Development Director	

AGENDA HEADING:

Resolution setting the date of Public Hearing regarding the proposed Tree Management Ordinance for March 9, 2009.

SYNOPSIS:

The attached ordinance would amend Chapter 42 of the City Code (“Environment”) to include tree preservation and mitigation. The ordinance would apply to any publicly or privately owned parcel of ground that is over 40,000 square feet in size. A tree removal permit and mitigation plantings would be required whenever 5 or more mature trees (at least 12-inches in diameter) are removed from a site or when at least 10,000 square feet of tree canopy is removed from a site. Mitigation planting requirements are greater for tree removals that occur without a required permit.

FISCAL IMPACT:

Amount: Indeterminate.

The proposed ordinance would be implemented by staff resources in the Community Development and Parks Departments. Reducing the minimum property size threshold would likely require additional staff resources. A minimal fee for tree removal permits will not cover actual costs of implementation.

Funding Source: Operating Budget

ADDITIONAL INFORMATION:

City staff made a presentation to the City Council at the January 26, 2009 worksession regarding the proposed Tree Management Ordinance. The Council directed staff to present the ordinance for the Council’s consideration within 30 calendar days.

Exhibit A contains the ordinance that is recommended for approval by the City Manager. This version compiles and balances the recommendations of the Plan and Zoning Commission, Park and Recreation Board and city departments.

Exhibit B contains the original ordinance drafted by the Regulation and Ordinance subcommittee of the Plan and Zoning Commission with input from Trees Forever and a developer panel. “Strikeout” and “underline” text in Exhibit B reflects the recommendations of the Plan and Zoning Commission.

Key differences between Exhibit A and Exhibit B:

- Exhibit A eliminates “removal of 10% of tree canopy” as a threshold for determining whether a permit is necessary. Staff notes that if there are 10 trees on a property, removal of one tree would require a permit. Such a requirement would lead to confusion in enforcement for staff and compliance by citizens.
- Exhibit A retains the original ratios for mitigation plantings when a permit is required and the original penalty for removals that occur without a required permit (see strikeout text in Exhibit B).
- Exhibit A specifies that the Community Development Director will consult with the Parks and Recreation Director or their designee on all tree removals in excess of five mature trees or 10,000 square feet of canopy area.
- Exhibit A specifies that the Community Development Director, after consultation with the Parks and Recreation Director, may grant variances to the ordinance (rather than the Plan and Zoning Commission).
- Exhibit A specifies that the applicant may appeal the decision of the Community Development Director to the City Council.

The following are responses to questions raised at the January 26, 2009 City Council worksession regarding the ordinance contained in Exhibit A:

Can the tree ordinance include properties smaller than 40,000 sq. feet?

The ordinance can include any size parcels that the Council directs. There are 4,640 parcels in the Des Moines City limits that are greater than 40,000 square feet in size. There are 7,839 parcels greater than 20,000 square feet in size and 24,836 parcels greater than 10,000 square feet in size. The Plan and Zoning Commission and Community Development staff recommended that the ordinance apply to parcels greater than 40,000 square feet in size in order to implement the ordinance within existing resources. Reducing the minimum applicable lot size will likely result in the need for additional staff resources.

Can Council be provided with a copy of the potential ordinance and the original one? And how soon can this ordinance be submitted to Council?

Staff committed to submitting the proposed ordinance to the City Council within 30 days of the January 26, 2009 worksession. **Exhibit A** contains the proposed ordinance as recommended by the City Manager and is a compilation of recommendations by the Plan and Zoning Commission, Park and Recreation Board and city departments. **Exhibit B** contains the original ordinance drafted by the Regulation and Ordinance subcommittee of the Plan and Zoning Commission with input from Trees Forever and a developer panel. “Strikeout” and “underline” text in Exhibit B reflects the recommendations of the Plan and Zoning Commission.

Can this ordinance be implemented prior to the current development season?

Yes. The proposed ordinance references applicability to all removals that occur after April 1, 2009. This date could be amended if the Council chooses to approve final consideration of the ordinance on March 9, 2009.

When did Plan and Zoning’s R&O Committee give their recommendation on tree management?

On October 4, 2007 the P&Z voted 10-0 in support of a motion asking Council to initiate actions

authorizing staff to prepare a Tree Preservation / Management Ordinance. On October 22, 2007 the City Council authorized the Plan and Zoning Commission and staff to prepare such an ordinance. On May 1, 2008 the Plan and Zoning Commission recommended approval of the ordinance recommended by the Regulation and Ordinance subcommittee with amendments. The ordinance was then reviewed by the Park and Recreation Board and pertinent City Departments.

Can research be conducted on New York City's reforestation process?

The City of New York City has inventoried street trees and trees in public parks based on region or borough. Mayor Bloomberg announced the **PlaNYC** and **MillionTreesNYC** initiatives in April 2007. The **PlaNYC** includes a plan to increase street tree stocking from 73% to 100%. The **MillionTreesNYC** initiative calls for the planting of 1 million trees by 2017. Both programs are oriented toward public right-of-way and public property, although residents may register plantings on private property with the MillionTreesNYC program. Tree permits are required to plant, prune, or remove trees in the public right-of-way or on public property. All work must be done by the Parks and Recreation Department. The City does not require a permit to prune or remove a tree on private property.

The New York City Planning Commission has been designating special zoning districts since 1969 to achieve specific planning and urban design objectives in defined areas with unique characteristics. Each special district designated by the Commission stipulates zoning requirements and/or zoning incentives tailored to distinctive qualities that may not lend themselves to generalized zoning and standard development.

While special districts remain a widely used affirmative zoning technique in New York City, they have changed over time as new zoning tools became available. Some special districts have been eliminated; others have been modified and absorbed within new special districts. Today, increasingly fine-tuned contextual zoning districts (see Planned Unit Development in Des Moines) can often preserve a neighborhood's special character without need for special district zoning.

Can we look into a policy that would look at trees as more of an asset in neighborhoods/private properties?

The "Purpose" section of the proposed ordinance states "*The city council finds that the city contains many canopied areas containing trees of significant size, value and quantity that contribute in a positive way to the human and animal environment. Trees and associated vegetation that are properly maintained increase property values, maintain the natural ecology, temper the effects of extreme temperatures and winds, reduce runoff, prevent erosion, and help create and maintain the identity and visual character of the city. The purpose of this chapter is to preserve and prevent the removal of canopied areas and groves of mature trees on private property until the impact of such removal can be considered in the context of the ultimate use and development of the land. Further purposes include the mitigation and replacement of trees that are lost from removal.*" The Park and Recreation Board has recommended that they be charged with creating a tree management plan for the entire city. Due to the time necessary to prepare such a plan, staff believes that the proposed ordinance is a necessary interim step.

What is the ratio of tree replacement?

If a required permit is obtained, the following mitigation ratio is proposed by the staff:

<u>Diameter Breast Height of Removed Tree in inches:</u>	<u>Ratio of Replacement Trees to Removed Tree:</u>
At least 12 and less than 18	1:1
At least 18 and less than 23	2:1
At least 23 and less than 29	3:1

For each increment of 6 inches, or any part thereof over 29 inches, another replacement tree shall be required.

If a required permit is not obtained, the following mitigation ratio is proposed:

One replacement tree shall be planted for every 700 square foot increment of canopied area removed (approximately 2.5x to 3x the amount required if a required permit was obtained).

PREVIOUS COUNCIL ACTION(S):

Date: May 19, 2008

Roll Call Number: 08-868

Action: Regarding a proposed Tree Preservation/Management Ordinance. Moved by Coleman to receive, file and refer to the City Manager and the Park and Recreation Board for review and recommendation; seek input from a variety of those affected and determine the fiscal impact. Motion Carried 7-0.

Date: October 22, 2007

Roll Call Number: 07-2023

Action: Regarding a Tree Preservation/Management Ordinance. Moved by Vlassis to receive and file. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Date: September 23, 2008

Action: The Park and Recreation Board referred the item to their Urban Conservation subcommittee. The Committee ultimately recommended that the Park and Recreation Board and the Urban Conservation subcommittee be charged with developing a citywide Tree Management Plan. They also recommended that the proposed tree preservation / management ordinance be deferred until a Tree Management Plan is completed (estimated 2+ years).

Date: May 1, 2008

Action: Plan and Zoning Commission voted 11-0 to recommend approval of an ordinance containing the text attached hereto as Exhibit “B”.

Date: October 4, 2007

Action: Plan and Zoning Commission voted 10-0 in support of a motion to express their concerns with the removal of existing mature trees on private and public property within the City of Des Moines and to request that the City Council initiate actions authorizing the Planning Commission and City staff to prepare a Tree Preservation / Management Ordinance.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Public Hearing and first reading of the ordinance on March 9, 2009. Second and third readings of the ordinance would need to be approved on March 23, 2009 in order for the ordinance to be implemented by April 1, 2009.

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