

City of Brookhaven Proposed Tree Ordinances: Changes Requiring CFQG Member Input

Proposed Ordinance as shown on 8/22/14 draft of Ch.14, Article II, Sec.14-39	Proposed Ordinance as revised on 8/6/15 draft of Ch.14, Article II, Sec.14-39	Proposed Ordinance Placement on 8/6/15 draft	Council for Quality Growth Member Feedback
Only two comments listed under General Applicability Section.	The following third comment was added: <p style="color: red;">“Nothing in this section shall be deemed to prohibit a property owner from pruning, maintaining, or otherwise caring for trees on their property as needs require, so long as such activities do not threaten the health or stability of the tree being pruned or maintained. All pruning shall comply with ANSI Standard A300 (part 1) pertaining to pruning.”</p>	Page 3. (1) (c) (3) General Applicability	
“Boundary Tree means a tree twenty (20) inches DBH...”	Measurements were changed to: <p style="color: red;">“Boundary Tree means a tree fifteen (15) inches DBH...”</p>	Page 3. (1)(d)(3) Definitions	
No “Hazardous Tree” definition is provided.	The following definition was added: <p style="color: red;">“Hazardous Tree means any tree determined by a Certified Arborist that is deemed to be in irreversible decline, is diseased, or poses a threat to life or property because of structural instability of the tree.”</p>	Page 4. (1)(d)(16) Definitions	
“The removal of three (3), eight (8) inch DBH or greater trees...Trees less than eight (8) inch DBH may be removed from an owner occupied, single-residential property without a permit so long as a Density Factor of sixty (60) DBH inches of trees per acre is maintained.”	Measurements were changed to: <p style="color: red;">“The removal of three (3), six (6) inch DBH or greater trees...Trees less than six (6) inch DBH may be removed from an owner occupied, single-residential property without a permit so long as a Density Factor of sixty (60) DBH inches of trees per acre is maintained.”</p>	Page 6. (1)(e)(1) Tree Removal Exemptions	
Only four tree removal exemptions are listed.	The following fifth exemption was added: <p style="color: red;">“Activities or trees described in a wavier issued by the city manager or her/his designee during and immediately after the period of an emergency such as a flood, ice storm, thunderstorm, windstorm, tornado, or any other disastrous act of nature.”</p>	Page 6. (1)(e) (5) Tree Removal Exemptions	

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<p>Only two tree density requirements are listed.</p>	<p>The following third and fourth requirements were added:</p> <p>“(c) Tree canopy cover preserved or planted to meet the requirements of tree density shall be conserved on the site for the following time period:</p> <ol style="list-style-type: none"> 1. Commercial properties in perpetuity. 2. Residential properties for 5 years; after then the provision in Section 14-39(e) (1) shall be extended to the homeowner. <p>(d) Required tree canopy lost over time due to natural causes, disease, or pests shall be replaced during the first planting season after the loss occurs with the same mature canopy size potential 2.5 inch caliper tree.”</p>	<p>Page 8. (1)(f)(3)(c-d) Tree Density Requirements</p>	
<p>“...On a single family property where is at least 2,500 but less than 4,500 square feet of front yard area (the area of land immediately adjacent to the improvement running to the boundary of the street right of way), there shall be at least one (1) two (2) inch caliper tree within the front yard area. On a single family residential property where there is at least 4,500 square feet of front yard area, there shall be at least two (2) two (2) inch caliper trees within the front yard area.</p>	<p>Measurements were changed to:</p> <p>“...On a single family property where is at least 2,500 but less than 4,500 square feet of front yard area (the area of land immediately adjacent to the improvement running to the boundary of the street right of way), there shall be at least one (1) two and a half (2.5) inch caliper tree within the front yard area. On a single family residential property where there is at least 4,500 square feet of front yard area, there shall be at least two (2) two and a half (2.5) inch caliper trees within the front yard area.”</p>	<p>Page 10. (1)(f)(4)(3) Calculating Tree Density and Individual Tree Canopy Cover</p>	
<p>Only two transplant tree standards (a,b) are listed.</p>	<p>The following three standards (c,d,e) were added:</p> <p>“c. Transplanting shall be performed using a tree spade of proper dimension.</p> <p>d. Transplanting shall comply with current ANSI Standard Z-60.1, Section 1.3.</p> <p>e. Trees and shrubs should not be dug or moved with a tree spade during the active growing period (Mid-March to Early-October).”</p>	<p>Page 11. (1)(h)(1)(c-d) Tree Preservation and Replacement Standards: Transplant Trees</p>	

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<p>“Recompense Fee= \$125.00 per/DBH inch”</p> <p>“The number of inches subject to a specimen recompense fee shall not exceed sixty (60) inches DBH per acre in addition to the required 120 inches DBH for preservation nor shall it exceed \$75,000 per acre in any case.”</p>	<p>Fees were changed to:</p> <p>“Recompense Fee= \$200.00 per/DBH inch”</p> <p>“The number of inches subject to a specimen recompense fee shall not exceed sixty (60) inches DBH per acre in addition to the required 120 inches DBH for preservation nor shall it exceed \$120,000 per acre in any case.”</p>	<p>Page 12.</p> <p>(1)(h)(2)(i) (1)</p> <p>Tree Preservation and Replacement Standards: Specimen Tree</p>	
<p>“...Area of bridge will typically adhere to the area under the dripline for all trees.”</p>	<p>The following revision was added:</p> <p>“...Area of bridge will typically adhere to the area under the dripline for all trees. Temporary bridge detail must be included on the Tree Protection and Replacement Plan.”</p>	<p>Page 13.</p> <p>(1)(h)(3)(d)</p> <p>Protection of Trees During Construction.</p>	
<p>“The applicant shall notify the adjoining property owner of a Boundary Tree in writing that the CRZ of a Boundary Tree is to be disturbed and if the tree should thereafter be damaged or die due to construction impacts, it will be handled as a civil matter between the Applicant and the Boundary Tree owner. The Applicant must provide a copy of any letters and the certificates of mailing prior to permit issuance.”</p>	<p>The aforementioned notification requirement is nulled; the following section was deleted:</p> <p>8.22.14 draft, Page 12, (3) (g)* Protection of Trees During Construction.</p>	<p>Page 13.</p> <p>(1)(h)(3)(g)</p> <p>Protection of Trees During Construction</p>	
<p>Only five sections (a, b, c, d, g) are listed under the Protection of Trees During Construction.</p>	<p>The following sixth section was added:</p> <p>h. Boundary Tree Protection and Escrow Account*.</p> <p><i>*New section changes procedures; requires permittees to obtain a line of credit. City Arborist may now engage in possible settlement procedures.</i></p>	<p>Page 14.</p> <p>(1)(h)(3)(h)(1-6)</p> <p>Protection of Trees During Construction</p>	

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“...the department of law is hereby authorized to institute injunctive, abatement, or any other appropriate judicial or administrative actions...”	Proper Enforcement Authority is clarified: “...City Attorney or her or his designee is hereby authorized to institute injunctive, abatement, or any other appropriate judicial or administrative actions...”	Page 18. (1)(h)(12)(a)(2) Enforcement	
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