

## Legislation Details (With Text)

<b>File #:</b>	21-209	<b>Name:</b>	
<b>Type:</b>	Ordinance	<b>Status:</b>	Individual Item Ready
<b>File created:</b>	2/23/2021	<b>In control:</b>	City Council
<b>On agenda:</b>	3/8/2021	<b>Final action:</b>	
<b>Title:</b>	Public hearing and first reading of an ordinance regarding a proposed amendment to Chapter 66 Historic Preservation for the protection and preservation of trees within historic districts and historic properties.		
<b>Sponsors:</b>			
<b>Indexes:</b>			
<b>Code sections:</b>			
<b>Attachments:</b>	1. Tree Ordinance Draft, 2. Appendix A - Approved Plant List, 3. Appendix B - Undesirable Trees, 4. Public Response		

Date	Ver.	Action By	Action	Result
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Presenter

*Christopher Looney, AICP, Planning and Development Services Director  
clooney@nbtexas.org*

**SUBJECT:**

Public hearing and first reading of an ordinance regarding a proposed amendment to Chapter 66 Historic Preservation for the protection and preservation of trees within historic districts and historic properties.

**BACKGROUND / RATIONALE:**

**Council Districts:** All

**Staff Contact:** Caleb Gasparek  
Historic Preservation Officer  
(830) 221-4086  
cgasparek@nbtexas.org

In the summer of 2020, residents of the Sophienburg Hill Historic District and Commissioners on the Historic Landmark Commission (HLC) requested to amend Chapter 66 of the City's Code of Ordinances to include guidelines and protection measures for historic and heritage trees within the City's historic districts and historic landmarks. The HLC and residents of the Sophienburg Hill Historic District have been concerned about removal of historic trees. In response, staff prepared some draft edits to the Historic Preservation Ordinance to provide protection measures for certain trees in historic districts and landmarks, while providing a framework for the removal and modest replacement of trees.

There are currently two tree preservation ordinances active in New Braunfels. Both ordinances include a process for the removal of protected trees. The first is found in Chapter 144 Zoning,

Subsection 5.3. The ordinance was first adopted in 1999, and though there have been several amendments over the past 22 years, the ordinance remains largely unchanged. The ordinance includes a process for the removal of protected trees on commercial properties only, while residential properties are exempt from the ordinance. This ordinance already applies to any commercial properties located within the City's four Historic Districts.

The second tree preservation ordinance is found within Chapter 34 Vegetation Protection Code of the Veramendi Development & Design Control Document (DDCD). The DDCD was adopted in 2013 and applies only to the Veramendi WCID area. The DDCD requires that a preliminary tree survey, a tree replacement plan, and a tree protection plan be submitted at the time of a Veramendi Sector Plan or when a building permit is submitted. Chapter 34 includes a program for off-site replacement of protected trees, and a payment in lieu of replacement should replanting not be possible.

The proposed amendment to Chapter 66 would create a series of standards and protection measures for trees found within historic districts and on historic properties. Unlike Chapter 144, the amendment would apply to residential properties with historic zoning overlay. Like Chapter 34 of the Veramendi DDCD, the amendment includes the option for the replanting of new trees on or offsite and the option for a payment in lieu of replacement should replanting not be possible.

The proposed amendment does not add new protected trees, but instead uses existing Appendix A from Chapter 144, which lists protected trees within City Limits. Similarly, the amendment to Chapter 66 uses existing Appendix B of Chapter 144, which lists undesirable trees that would not require a tree removal permit and not be subject to the ordinance. These two existing ordinance appendices are included as attachments in this agenda packet for your reference.

After receiving feedback from residents, industry experts, and recommending boards and commissions, staff has revised several sections of the proposed ordinance accordingly, most notably to be more consistent with the City's existing tree preservation ordinance.

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

<b>City Plan/Council Priority:</b> Envision New Braunfels Comprehensive Plan	<b>Action 1.11:</b> Update policies and codes to achieve development patterns that implement the goals of this plan. <b>Action 1.2:</b> Create plans for neighborhoods and transitional areas to maintain quality of life. <b>Action 2.2:</b> Prioritize areas that are best suited for conservation and preservation. <b>Action 2.25:</b> Increase resources for historic preservation. <b>Action 5.17:</b> Review and update Tree and Landscape ordinances to ensure New Braunfels remains a green city and expands its tree canopy. <b>Action 7.14:</b> Increase tree canopy for increased shade to encourage walking.
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**FISCAL IMPACT:**

The proposed draft includes a tree mitigation fund as an option which can be used to plant and maintain trees.

**COMMITTEE RECOMMENDATION:**

The draft ordinance amendments were reviewed and recommended for approval unanimously by the Historic Landmark Commission at their November 10, 2020 meeting.

The draft ordinance amendments were reviewed and recommended for approval unanimously by the Parks Board (which also serves as the City's Tree Board) at their December 15, 2020 meeting.

After a briefing at their January 5, 2021 meeting, the draft ordinance amendments were reviewed and recommended for approval unanimously by the Planning Commission at their February 2, 2021 meeting.

**STAFF RECOMMENDATION:**

Staff recommends approval of the proposed amendments to Chapter 66. The proposed amendments were drafted using best practices from other tree preservation ordinances in Texas, and are a hybrid of two existing ordinances already in place in New Braunfels. The natural landscape, like the built environment, is a character defining feature of many historic neighborhoods, contributing to the overall character of New Braunfels' historic neighborhoods. Additionally, the proposed amendment aligns with the City's goal of maintaining its status as a recognized Tree City by the Arbor Day Foundation, and would implement several Actions in Envision New Braunfels, the City's Comprehensive Plan.

*Public Notice*

Though mailed public notice is not required for amendments to ordinances, city staff mailed 332 drafts of the proposed amendment to owners of historic properties within City Limits. Staff has received twelve (12) written responses in favor, and seven (7) written responses in objection.

**ATTACHMENTS:**

1. Draft Ordinance
2. Appendix A - Approved Plant List
3. Appendix B - Undesirable Trees
4. Public Response