



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

APPLICATION #: 2019-06

APPLICATION NAME: Application to Amend Municipal Code Chapter 405
(Zoning) - Tree Preservation Program

APPLICANT: City of Arnold

REQUEST: A City-initiated request to amend Chapter 405, Zoning, of the Code of Ordinances to modify definitions and regulations related to the preservation of trees prior to grading or development.

MEETING DATE: March 12, 2019

REPORT DATE: March 5, 2019

CASE MANAGER: Christie R Hull Bettale, EIT

RECOMMENDATION: **APPROVAL**



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BACKGROUND

The City's Zoning Ordinance (Ord. No. 14.2) was adopted by the City Council on June 30, 1977. A number of amendments have been approved since that time with the most recent being on February 21, 2019. Even the best ordinances become out of date. Periodic revision is essential if the ordinances are to establish and maintain a rational land use pattern. Changes, however, should not be made in an arbitrary manner. Significant updates to the Zoning and Subdivision Ordinances are best undertaken following an update of the Comprehensive Plan. The rationale for this approach is that the Ordinances are the implementation tools of the Plan and should reflect its goals and policies. Nevertheless, clarification of information contained in the Zoning Ordinance may be appropriate at any time. Occasionally, unforeseen issues may need to be addressed on an ad hoc basis.

A major update to the Comprehensive Plan is anticipated to be completed, and a significant update of the Zoning Ordinances that may include significant policy or regulatory changes would likely follow. However, the purpose of this request is to provide clarification and consistency in interpretations of the Zoning Ordinance.

DISCUSSION/ANALYSIS

The Tree Preservation Program Ordinance has been on the books since May 2014. It was written and codified with the intent to limit grading that results in the clear cutting of trees, to keep natural wooded areas for benefit with stormwater runoff and to reduce the need to plant new trees. Since then, the code has functioned as intended. However over time, as the code is utilized by staff, we've noticed some room for updates.

By the exact word that it is written, the Tree Preservation Program Ordinance hinders the zoning procedures for some typical land owners. Specifically, those wanting to subdivide land without grading or public improvements and those who want to build a home on a lot without extensive grading beyond the footprint of the building. The way the code is currently, there are not exemptions and these owners are required to have a Tree Preservation Plan, this is not what was intended. A new paragraph is drafted for exempted properties.

Other minor changes include, terminology, Definitions, location of the Penalty's and Appeals paragraph. These modifications as well as staff's proposal to include a Missouri Licensed Landscape Architect as an acceptable professional to prepare a Tree Preservation Plan, are shown in the drafted ordinance changes.

Staff believes the issue can be best approached by making a number of changes to the Code summarized as follows:

- Establish a number of exceptions that address the development of a single-family home, while considering the possibility of future development.
- Clarification of terms are made, changes for consistency throughout the section, and added a statement to clarify intent.

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FINDINGS AND RECOMMENDATION

SUCH AMENDMENT IS REQUIRED BY PUBLIC NECESSITY AND CONVENIENCE AND GENERAL WELFARE

The Community Development Director finds that the text amendments contained within application number 2019-06 are warranted by the public necessity and convenience to provide clarification in the enforcement of the Zoning Ordinance.

The Community Development Director finds that the text amendments contained within application number 2019-06 are warranted by the need to promote and protect the general welfare by protecting the economic and tax base of the City, preserving and enhancing the values of property owners and users, promoting the orderly and harmonious development and redevelopment of the City, preserving and promoting the character and stability of the City and its various residential and commercial neighborhoods, improving the appearance of the City, and promoting the best use and development of commercial land in accordance with the Comprehensive Plan.

RECOMMENDATION

The Director of Community Development finds that the proposed text amendments meet or exceed review criteria and further advances the intent of Chapter 405. Based on this finding the Director of Community Development requests favorable consideration of the draft amendments.

A handwritten signature in cursive script, reading "Christie R. Hull Bettale", is written over a horizontal line.

Christie R Hull Bettale, EIT
Community Development Engineer



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ATTACHMENTS

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Proposed Amendments Legend

Unchanged text in black

Additions are in ~~blue strikethrough text~~

Deletions are in red underscored text

Relocations are in green double underscore/~~strike through~~

THIS SECTION INTENTIONALLY LEFT BLANK.

DRAFT AMENDMENT LANGUAGE

2019-06 Tree Preservation TEXT AMENDMENT



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DRAFT AMENDMENT IS ATTACHED

DRAFT AMENDMENT LANGUAGE—CONTINUED

Tree Preservation

Article IV Tree Preservation Program

Section 405.540 Purpose and Intent.

The purpose of this Section is to promote the public health, safety, and general welfare of the residents of the City of Arnold by providing tree preservation standards. These standards represent an ongoing effort to enhance the quality and appearance of developed properties, protect existing natural resources, minimize storm water runoff, buffer differing land uses and conserve the value of land and buildings throughout the City, and meet the goals of our residents as identified in our Comprehensive Plan. The overall goal of this preservation plan is to preserve as many trees as possible and avoid having developers and builders spend extra funds to plant new trees. Provided exemptions to the standards contained in this Article are not intended to provide a mechanism to avoid fulfilling the preservation requirements contained herein.

Section 405.545 Applicability.

Except as otherwise provided by law. This Article shall be applicable when trees are to be removed in conjunction with new development, as defined herein, and/or grading in all zoning classifications identified within our the Zoning Code Ordinance of the City of Arnold, Missouri hereinafter referred to as "the Zoning Ordinance."

Section 405.550 Definitions.

As used in this Article, the following terms shall have these prescribed meanings:

CALIPER

Caliper (diameter) measurement of the trunk of proposed new and replacement trees to be planted shall be taken six (6) inches above the ground up to and including four-inch caliper size. If the caliper at six (6) inches above the ground exceeds four (4) inches, the caliper should be measured at twelve (12) inches above the ground (American Standard for Nursery Stock, ANSIZ60.1-2004). Caliper measurement should be performed using a diameter measuring tape. Measure the tree trunk circumference and divide by 3.14 to find the diameter of the trunk.

DESIRABLE TREES

Trees from the approved tree list in the Arnold-Zoning Code Ordinance that have a DBH of five (5) inches and greater for deciduous trees or five (5) feet and greater for evergreen trees.

DIAMETER BREAST HEIGHT (DBH)

Diameter measurement of an existing tree trunk taken at 4.5 feet above the ground. Diameter measurement should be performed using a diameter measuring tape. Measure the tree trunk circumference and divide by 3.14 to find the diameter of the trunk.

INVASIVE TREES OR PLANTS

Species as identified by the United States Department of Agriculture and/or Missouri Department of Conservation.

NEW DEVELOPMENT

The subdivision of any ~~parcel~~ lot or contiguous lots of land three (3) acres or more in size or the grading of one-half (½) acre or more on any portion of any lot or contiguous lots of land three (3) acres or more in size, or the construction of any building or structure ~~on~~ upon any ~~parcel~~ lot or contiguous lots of land three (3) acres or more in size.

PREMIUM TREES

Trees not on the list of prohibited trees in the ~~Arnold~~ Zoning Code that have a caliper of ten (10) inches or more or eight (8) feet or higher for evergreens.

TREE DRIP-LINE

The outer existing tree canopy circumference projected perpendicular onto the ground, where rain water would drip from the outer tree leaf tips to the ground. The drip-line includes the tree canopy area within the circumference of the tree.

TREE PROTECTION ZONE (CRITICAL ROOT ZONE)

The area extending from the trunk of a tree to ten (10) feet beyond its perimeter tree drip-line that must be protected and remain undisturbed throughout construction.

UNDESIRABLE TREES

Trees from the "Plant Material Not Allowed" list in the ~~Arnold~~ Zoning ~~Code~~ Ordinance, or trees that are known to be messy (drop large fruit, drop drupe fruit, drop large nuts over one (1) inch in diameter, drop large seed pods over three (3) inches in length, consistently drop twigs), have weak wood, have untreatable pests, or are uncontrollably invasive. The following trees are exempt: Black Walnut, Extra Large Pecan, Mixed Hickory, Pecan, Persimmon, Wild Plum, Sycamore and Missouri natives.

Section 405.555 Preservation Requirements.

Thirty-five percent (35%) of the existing trees must be preserved by the owner/developer of the site. City of Arnold staff may approve removal of up to sixty-five percent (65%) of the existing site trees as part of the tree preservation and ultimate development plan.

Section 405.560 Tree Preservation Plan Required.

- A. Provide the surveyed location and DBH of existing deciduous trees of five (5) inch DBH or greater, existing evergreen trees five (5) feet in height or greater, perimeter of existing shrub and tree masses over twenty-four (24) inches in height on the site utility and topographic survey for the development. Provide the surveyed location of any other existing trees and shrubs around existing buildings or structures desired to be considered for satisfaction of landscape planting requirements. The site existing conditions utility and topographic survey, with tree and vegetative masses shown, shall be submitted along with the Tree Preservation Plan, and shall serve as the basis of the proposed Tree Preservation Plan.

B. A Tree Preservation Plan is required when trees are to be removed in all zone classifications identified in ~~our~~the Zoning ~~Code~~Ordinance and must include the following information:

1. The following plan may be prepared by a Licensed Land Surveyor or Professional Engineer:
 - a. The Tree Preservation Plan must include a written statement of the proposed work to be accomplished and a site plan;
 - b. The Tree Preservation Plan must use the site utility and topographic survey as the base, showing all current existing structures, utility lines and structures and site topography indicated at a maximum of two (2) foot contours.
 - c. The Tree Preservation Plan must show the location of proposed grading, the proposed structure(s) and associated parking, as well as all existing and proposed utility cuts, hard surface and right-of-way.
2. The following plan must be prepared, signed, and sealed by an International Society of Arboriculture (ISA) certified Arborist or a Missouri licensed Landscape Architect:
 - a. The Tree Preservation Plan must include the location and species of existing, DBH and measured tree drip-line of existing trees with a DBH of five (5) inches or more for deciduous trees or five (5) feet or more in height for evergreens. The plan must also indicate whether the trees are to be preserved or removed and outline the methods of tree or root pruning required in the effort to preserve the tree or trees if applicable. The Tree Preservation Plan should match the scale and orientation of the original site survey drawing.
 - b. Show the number, size and species of additional trees to be planted in a planting schedule and reference the trees on the plan with a planting symbol representing and measuring its expected mature canopy size along with a lettered key with tree quantity indicated. All trees to be planted must be from the approved tree list in ~~our~~the Zoning ~~Code~~Ordinance. Refer to Section 405.565, Replacement Requirements, below.
 - c. Provide a planting schedule with the following information for each tree: two (2) to four (4) letter identification key code, botanical name, common name, size (DBH or height), condition (balled and burlapped or container size), remarks (single stem, multi-stem, etc.), spacing (typical spacing between plants, if applicable).

C. A Tree Preservation Plan is not required for New Development as exempted below unless such New Development causes a major adverse impact to runoff and diversion of storm water or streams, erosion, risk of landslide, infiltration of pollution into ground water, or

major adverse impacts to safety and security of adjacent properties, as determined by the Community Development Director or assigns:

1. When such New Development is limited to the re-subdivision of developed land and no additional land disturbance is proposed. In such cases, subdivision approval shall be so conditioned to include a requirement that any further subdivision of any portion of such land, any grading, or any construction shall warrant a Tree Preservation Plan regardless of tract or parcel size.
2. When such New Development is limited to the grading for and/or the construction of one (1) single- or two-family house, and no subdivision of land is involved. In such cases, grading and building permit approval shall be so conditioned to include a requirement that any future subdivision of such land shall warrant a Tree Preservation Plan regardless of tract or parcel size.

Section 405.565 Replacement Requirements.

Any tree with a DBH of five (5) inches or more for deciduous trees, or five (5) feet or more in height for evergreens, to be removed from the required thirty-five percent (35%) preserved area shall be replaced DBH for DBH with deciduous trees and height for height with evergreens of the tree removed. The minimum size of the replacement tree is six (6) inch DBH for deciduous trees or six (6) feet in height for evergreens. The replacement trees do not count towards the landscape requirements provided for in the [City of Arnold Zoning Code Ordinance](#).

Section 405.570 Credit.

- A. For every one percent (1%) of existing trees saved above the required thirty-five percent (35%), the developer shall be credited toward the landscape requirements in the [Arnold Zoning Code Ordinance](#) as follows:
1. Undesirable trees not on the City's banned tree list shall be credited for two percent (2%) toward landscape requirements.
 2. Desirable trees shall be credited for three percent (3%) toward landscape requirements.
 3. Desirable trees in the fifteen-foot buffer area around the property shall be credited for four percent (4%) toward landscape requirements.
 4. Premium trees kept shall count as double. In the fifteen-foot buffer area it shall be credited as eight percent (8%) and in other areas it shall be six percent (6%) toward landscape requirements.
 5. Storm water systems using best management practices such as rain gardens, or equivalent (not traditional detention basin) may receive up to a three percent (3%) credit toward the tree preservation plan.

- B. In order to minimize interference with overhead utility lines, all large canopy shade trees and evergreen trees located within existing and proposed overhead utility easements shall be removed by the applicant so as to limit the potential for damage to utility distribution facilities. Specific trees and landscaping materials may be retained if they will not damage or interfere with the delivery of utility service at normal mature height. Trees removed from existing/proposed utility easements shall count toward the sixty-five percent (65%) removed.
- C. Any land for right-of-way dedication to a political subdivision of the State shall not be included in tree preservation calculations or credits.

Section 405.575 Marking of Trees.

Prior to any tree removal or commencement of construction on a site and during the plan approval process, the following uniform colored ribbon system shall be used: Red for trees to be saved; blue for trees to be removed.

Section 405.580 Protection Measures During Construction.

All trees on public or private property that are designated for preservation shall be guarded by a four-foot high barrier that designates the enclosed area as a tree protection zone. This enclosure shall extend ten (10) feet past the tree canopy. No building materials, waste materials, excess dirt, construction debris, equipment or vehicles shall be allowed within this protection zone.

Section 405.585 Protection Measures After Construction.

The trees preserved and planted must be maintained by the owner or developer in a healthy growing condition for two (2) years after the issuance of an occupancy permit. Plant materials that exhibit damage must be restored to healthy condition or replaced DBH for DBH within the next growing season.

Section 405.590 Tree Preservation Easement.

Trees designated for preservation must be placed in a tree preservation easement with script indicating they are not to be removed.

~~Section 405.595 Penalties and Appeals.~~

~~Any party dissatisfied upon the denial of an application for a Tree Preservation Plan by the Planning Commission may file an appeal with the Council requesting a determination from that body. A notice of appeal shall be filed within seven (7) days after the Planning Commission's action. Notice of appeal to the Council shall be in writing and shall be filed with the City Clerk.~~

Section 405.600-595 Variances.

A. Variations from the strict requirements of this Article~~Appeals to the Tree Preservation Ordinance~~ must be made in writing to the Planning Commission outlining ~~their reason~~the justification for ~~appeal variance~~ that addresses the following criteria:

1. The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which is located.
2. The conditions upon which the request for a variance is based are unique to the property to which the variance is sought, and are not applicable generally to other property.
3. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the letter of these regulations are carried out.

Section 405.595~~600~~ Penalties and Appeals.

A. Any party dissatisfied upon the denial of an application for a Tree Preservation Plan~~Variance from the strict requirements of this Article~~ by the Planning Commission may file an appeal with the Council requesting a determination from that body. A notice of appeal shall be filed within seven (7) days after the Planning Commission's action. Notice of appeal to the Council shall be in writing and shall be filed with the City Clerk.

Section 405.610 through Section 405.640. (Reserved)