

PUBLIC DOMAIN TREE PROTECTION ORDINANCE

Tree Protection of Public Trees in the City of Mount Vernon

1 - Policy.

The establishment of a policy for the placement, preservation and maintenance of trees, as site improvements is essential for the enhancement of the community's ecological, environmental, and aesthetic qualities. These qualities serve such purposes as reducing the negative effects of increased air temperatures, pollution, glare, noise, erosion and sedimentation caused by expanses of impervious and unvegetated surfaces, and provide buffers between land uses of different character.

It is the policy of the City of Mt. Vernon to adopt this public domain tree protection ordinance to protect trees growing within the public domain of the City of Mt. Vernon. It is the stated policy of the City to protect trees without causing hardship to residents of the City. All existing property rights enjoyed by individual residents of the City of Mt. Vernon as owners of single family or rental residential property are confirmed.

All residential property owners (whether single family, rental or multiple unit residential rental) are exempt from any provision of this act except as to the rights of the City governing trees growing within rights-of-way or legal easements owned by the City of Mt. Vernon and control of such trees shall lie within the jurisdiction of this Ordinance. In any event, the City will cooperate to insure utility services for property owners when utilities are served through the rights set out herein.

Trees within the public domain shall be protected and subject to this ordinance. Trees lying in City rights-of-way and trees within city real property are protected as provided in this ordinance. Protection of trees shall be a goal but protection shall be applied through a common sense approach from City staff, City committees and ultimately the City Council as provided in the procedures for administration of this ordinance to the end of insuring that the City continues to enjoy the benefit and appreciation of the natural heritage and benefits of trees within the City and the quality of life of the citizens of Mt. Vernon.

The City of Mt. Vernon recognizes the value of trees and adopts a policy in favor of the planting of trees within the City of Mt. Vernon, and in areas controlled or owned by the City of Mt. Vernon. To that end, the City shall encourage the planting of trees set forth as recommended species in the Tree Schedules adopted as part of this Ordinance.

If overhead power lines are located above the planting area, approved trees from the list of small ornamental trees must be used. Existing trees planted under overhead power lines shall be protected with a common sense approach to trimming the minimum amount of growth to prevent interference with utility lines.

The City will act to prohibit removal or excessive pruning of trees around utility service lines to preserve the integrity and beauty of the forested parts of the City. The City will encourage installation of underground utility service lines to reduce further installation of utility service poles within the City of Mt. Vernon.

City policy shall encourage the planting of crepe myrtles throughout the city. The crepe myrtle even in its largest growth pattern does not threaten electric transmission lines; the City shall restrict pruning which exceeds more than five feet of distance from power lines in an effort to encourage the planting and utilization of crepe myrtles within the City of Mt. Vernon as a tree which is drought tolerant, universally considered of merit; and which will benefit property values throughout the town.

Property owners within the City of Mt. Vernon are encouraged to plant trees and shrubs. If an obstruction of traffic visibility is likely to occur, screening that extends into a required front or exterior side yard shall be modified to insure visibility. Cooperation with property owners as a matter of practice is expected of City staff. But policy must prevail as to issues of visibility and safety.

In all zoning districts in the City of Mt. Vernon, Texas, the preservation and protection of trees is encouraged. Trees growing within city controlled real property, whether under easement or in fee ownership, shall be protected and preserved. Removal of trees within City easements and rights-of-way or from property owned by the City is prohibited except in accordance with the procedures outlined herein.

2 - Purpose.

Trees provide a valuable amenity to the urban environment in the maintenance of public health and welfare, in the conservation of vital energy resources, and in the preservation of the City's heritage. These rules and regulations, therefore, govern the protection of trees which lie within easements and rights-of-way owned by the City of Mt. Vernon and within parks, public areas or other real property owned by the City of Mount Vernon.

The City of Mt. Vernon encourages planting of trees and/or replacement of trees throughout the city and will cooperate according to the circumstances or resources available to the City from time to time. The City of Mt. Vernon will encourage its environmental officer and City staff to proactively work toward replacement and further planting of trees in the City in the event of natural disasters causing wide-spread tree loss, to the end of working to provide outside sources of funding for property owners to prevent economic burdens in tree replacement following natural disasters.

As to City property: Tree Topping (also known as DeHorning). Any pruning which effectively tops or dehorns a tree shall be deemed to be the same as removal and shall be prohibited.

3 - Standards for Protection and Maintenance of Public Trees.

The City designates the City Environmental Officer and the City Parks and Recreation Department with responsibility for enforcing the provisions of this Ordinance insofar as trees, plants and shrubs are located within public rights-of ways, parks, parks, easements or other public places.

A. *Care of Public Trees: Responsibility:* The City Environmental Officer and the City Staff operating under the Parks and Recreation Department shall have the responsibility to plant, prune, maintain and remove trees, plants and shrubs within the public right-of-way of all streets, alleys, avenues, lanes, squares, parks, and public grounds, and in areas lying within easements of any type owned by the City of Mt. Vernon, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease.

B. *Overhangs:* As to any tree or shrub overhanging any street or right-of-way within the City, the City shall, in accordance to City guidelines, prune the branches so that such branches shall not severely obstruct the light from any street lamp or obstruct the view of any street intersection; will not obstruct the passage of pedestrians on sidewalks; will not obstruct vision of traffic signs; and will not obstruct the view of any street or alley intersection. City staff (in cooperation with the affected property owner) shall have the right to remove or prune any tree or shrub on private property which threatens the safety of those who may use a City street or City park or which must be addressed to allow access to City easements for City services such as sewer and water line access. Fees may be assessed to property owners to the extent the pruning is necessary due to the property owners planting trees directly over or near water meter service boxes or planting inappropriate trees at rights-of-way or under overhead utility lines. Fees shall be based on the current hourly wages of City maintenance workers.

C. *Prohibitions of Private Action:* No person shall remove, destroy or cause the removal or destruction of a tree on City property or in any City park without first having obtained written permission for such removal or destruction for the City Environmental Officer. It shall be unlawful for any person, firm or corporation to attach any cable, wire, rope, sign or any object to any tree plant or shrub owned by the City or under City jurisdiction, without written permission from the City Environmental Officer or delegated/authorized City staff member.

D. *Statement of Public Policy:* The City of Mt. Vernon favors protection of trees when at all possible. Therefore, it is the policy of the City that a request for the removal or trimming of trees lying in public rights-of-way should not be granted within the City jurisdiction and that placement of utility service should be arranged in alternative routes, through protective sheathing, or through underground placement.

E. *Landmark Commission Supervision:* The City Landmark Commission (the commission) is charged with the protection of the heritage of the City of Mt. Vernon.

F. *Responsibility for Enforcement.* Commission is charged with responsibility to act to uphold this ordinance and to provide protection and maintenance of healthy trees and to provide guidelines for the City staff for replacement and/or replanting and maintenance of trees necessarily removed under the provisions of this ordinance.

The City of Mt. Vernon recognizes the necessity for protection and preservation of native and established trees within the City which provide for purification of air and water, provide for shade, windbreaks and the cooling of air; provide for open space and more efficient drainage of land, thus reducing the effects on soil erosion.

The City of Mt. Vernon charges City Staff with the responsibility for annually reviewing this ordinance and for acting to promote public awareness programs within the City of Mt. Vernon; to coordinate and promote Arbor Day activities and to comply with the sustainability standards adopted and implemented from time to time by the City of Mt. Vernon, Texas.

4 - TREE SCHEDULES

Shade trees - large canopy.

A. *Large canopy shade tree listing:*

TABLE INSET:

Common Name	Scientific Name
American Elm	Ulmus americana
Black Hickory And any other related Hickory and pecan trees*	Carya texana
Bur Oak*	Quercus macrocarpa
Cedar Elm*	Ulmus crassifolia
Chinese Tallow	Sapium sebiferum
Chinkapin Oak*	Quercus muehlenbergii
Green Ash	Fraxinus pennsylvanica
Lacebark Elm*	Ulmus parvifolia
Live Oak	Quercus virginiana
Water Oak	Quercus nigra
Pecan-Hickory*	Carya illinoensis
Post Oak *	Quercus stellata

Red Maple	Acer rubrum
Shumard Red Oak*	Quercus shumardii
Thornless Honey Locust	Gleditsia trianthos v. inermis
White Oak	Quercus alba
Winged Elm and other Large Elms	Ulmus alata
Black Walnut *	Juglans nigra
Sycamore*	Platanus occidentalis
Willow Oak *	Quercus phellos
Overcup Oak	Quercus lyrata
Southern Magnolia *	Magnolia grandiflora
Black Tupelo *	Nyssa sylvatica
Bois d'Arc (fruitless/male) *	Maclura pomifera
Silver Maple	Acer saccharinum
Black Oak*	Quercus velutina
Red Oak*	Quercus falcata

B. *Protected size:* Protected large canopy shade trees shall be any of the species listed which have a trunk diameter of six (6) inches or greater, measured twelve (12) inches above natural grade.

C. *Installation:* Any tree of a species marked with an asterisk (*) in the listing of species may be used as replacement, landscape, or buffer trees. Mesquite trees and mimosa trees shall be specifically discouraged and will be subject to removal as nuisance trees within the City of Mt. Vernon, Texas.

Shade trees - small canopy.

A. *Small canopy shade tree listing:*

TABLE INSET:

Common Name	Scientific Name
Bald Cypress*	Taxodium distichum
Sweetgum*	Liquidambar styraciflua
Desert Willow	Chilopsis linearis
Ginkgo	Ginkgo biloba

Goldenrain Tree*	Koelreuteria paniculata
River Birch*	Betula nigra
Saucer Magnolia*	Magnolia grandiflora (dwarf & related spp.)
Eastern Redbud	Cercis canadensis/ texensis

B. *Protected size:* Protected small canopy, shade trees shall be any of the species listed which have a trunk diameter of six (6) inches or greater, measured twelve (12) inches above natural grade.

C. *Installation:* Any tree of a species marked with an asterisk (*) in the listing may be used as a replacement, landscape, or buffer tree. .

Evergreen trees.

A. *Evergreen tree listing:*

TABLE INSET:

Common Name	Scientific Name
Afghan (Mondell) Pine*	Pinus eldarica
Arizona Cypress	Cupressus arizonica
Austrian Pine	Pinus nigra
Deodar Cedar	Cedrus deodara
Eastern Red Cedar*	Juniperus virginiana
Japanese Black Pine*	Pinus thunbergiana
Loblolly Pine* ,	Pinus taeda
Slash Pine	Pinus elliotti
Longleaf Pine*	Pinus palustris
Shortleaf Pine*	Pinus echinata

B. *Protected size:* Protected evergreen trees shall be any of the species listed that measure eight (8) feet in height or greater.

C. *Installation:* Any tree of a species marked with an asterisk (*) in the listing of species may be used as a replacement, landscape, or buffer tree.

Ornamental trees.

A. *Ornamental tree listing:*

TABLE INSET:

Common Name	Scientific Name
Aristocrat Pear*	Pyrus calleryana "Aristocrat"
Bradford Pear*	Pyrus calleryana "Bradford"
Crab Apple *	Malus spp.
Crape Myrtle*	Lagerstroemia indica
Deciduous Holly* and American Holly	Ilex decidua/ Ilex opaca
Flowering Peach	Prunus persica
Purple Leaf Plum	Prunus cerasifer atropurpurea
Red Bud *	Cercis canadensis "Texensis"
Savannah Holly*	Ilex "Savannah"
Wax Myrtle *	Myrica cerifera
Yaupon Holly*	Ilex vomitoria
Mexican Plum	Prunus mexicana

B. *Protected size:* Protected ornamental trees shall be any of the species listed that measures eight (8) feet in height or greater.

C. *Installation:* Any tree of a species marked with an asterisk (*) in the listing of species may be used as a replacement, landscape, or buffer tree.

Other protected trees.

A. *Other protected trees listing:*

TABLE INSET:

Common Name	Scientific Name
Hackberry	Celtis occidentalis
Chinaberry	Melia azedarach
Pond Cypress	Taxodium distichum
Sycamore	Plantanus occidentalis
Texas Ash	Fraxinus texensis
Weeping Willow	Salix babylonica
Western Soapberry	Sapindus drummondii

Bumelia	Bumelia spp./lanuginosa; lyciodes
Catalpa	Catalpa bignunioides
Boxelder	Acer negundo
Cottonwood	Populos heteroplylla
Red Mulberry	Morus rubro

B. *Protected size:* Other protected trees shall be any of the species listed which have a trunk diameter of ten (10) inches or greater, measured diameter at three (3) feet above natural grade level.

5 - Adoption

A. If any section, paragraph, clause or provision of this ordinance shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

B. All ordinances of the City of Mt. Vernon, Texas, in conflict with the provisions of this ordinance are hereby repealed.

C. Penalties: Destruction or damage to trees within the defined areas of public domain shall subject any individual taking such action to criminal penalties under applicable laws for the destruction of public property.

D. This ordinance shall take effect immediately from and after its passage and publication of the caption, as the law and charter in such cases provide.

Duly approved and passed by the City Council of the City of Mt. Vernon, Texas, on the ___ day of _____, 2010.

Approved:

J.D. Baumgardner, Mayor

Attest:

Tina Rose, City Secretary