



Planning
Department

Bessie L. Martin
Director

STAFF REPORT

Text Study

Docket No. TXT-1-22
Summary No. 25938
Tree Preservation Study

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Study Intent: Study the text of Chapter 33 Unified Development Code, and Chapter 40 Zoning, more particularly Articles X. Old Metairie Neighborhood Conservation District (OMNCD) and X.5. Metairie Ridge Tree Preservation District (MRTPD), of the Code of Ordinances of Jefferson Parish to evaluate or amend standards and procedures pertaining to tree preservation, including tree replacement, violations, enforcement, and penalties.

Authorization: Res. No. 136707 (12/9/2020);
extended via Res. No.138642 (12/8/2021)

Council District: Parishwide

OMC Hearing: 05/05/2022

PAB Hearing: 05/12/2022

**Last Meeting Date
for Council Action:** 09/14/2022

OVERVIEW

The tree preservation standards provided in the Code of Ordinances (Code) aim to protect and preserve the existing tree canopy, promote the maintenance and planting of trees and related urban forestry activities, enhance the appeal of the built environment, increase comfort and property values, and generally improve the quality of the environment in Jefferson Parish.

In certain base(R-1B Suburban Residential District, R-1C Rural Residential District, and R-1D Rural Residential District)and overlay zoning districts(Metairie Ridge Tree Preservation District (MRTPD) and Old Metairie Neighborhood Conservation District (OMNCD))protected trees shall be preserved, protected, or if approved for cutting or clearing, shall be replaced. Protected trees include, but are not limited to Oaks, Elms, Bald Cypress, Pecans, Sycamores, and Magnolias. Specific preservation requirements vary by district. In lieu of replacement, the property owner may provide the monetary value of the required replacement tree(s). Regardless of the market value of the protected tree(s), currently a maximum monetary fine of \$500.00 per tree can be imposed on a property owner who causes significant damage or death to protected trees or removes a protected tree unlawfully.

Staff has identified issues with the current tree preservation, replacement, and violation provisions. Tree preservation provisions in the larger lot base zoning (R-1B, R-1C, R-1D) districts are vague and conflict with general tree preservation requirements applied to the MRTPD and OMNCD. Additional fines associated with illegal tree removal tend to be less than the monetary value of significant trees that are removed. Increasing the replacement requirement can act as both a form of discouragement for unlawful removal and a tangible

way to increase the tree canopy. In addition to significant trees, prohibited trees should be addressed in the Code. Additional standards are necessary for emergency tree removal and maintenance of replacement trees.

To address these issues, Staff is proposing amendments that support the preservation and replacement of significant trees, especially in the MRTPD and OMNCD, deter unlawful tree removal, and reformat and streamline regulations, as appropriate.

STAFF RECOMMENDATION

- Amend tree preservation and removal provisions:
 - In the OMNCD: Allow the removal of protected trees within the buildable area, but require replacement.
 - In the MRTPD: Continue to allow the removal of protected trees within the uncontested tree removal area, but require replacement; and
 - Remove outdated and vague tree preservation requirements for larger lot base zoning districts.
- Modify tree replacement and fee-in-lieu requirements:
 - In general, increase required replacement for proposed trees to be removed based on size and condition:
 - Trees 12-inch diameter breast height (DBH) or less= a 1-inch DBH:1-inch caliper ratio.
 - Trees over 12-inch DBH=1-inch DBH:1-inch caliper ratio up to twelve (12) inches, plus \$100 per inch thereafter. Funds shall be placed in the same account used for handling trees on public property.
 - Maintain requirement that a diseased or hazardous tree shall be required to be replaced on a 1 tree:1 tree ratio.
 - Clarify that the fee-in-lieu shall match the total market value of the required replacement tree(s) as determined by the Parish Arborist or Landscape Architect.
 - Add maintenance and inspection requirements for replacement trees.
- Clarify violations and enforcement procedures.
- Require double (2x) replacement for unlawful tree removal.
- Address related matters:
 - Consolidate conflicting significant trees list into a single list, and update species, as appropriate.
 - Add a list of prohibited trees that are not allowed to be planted as replacement trees that can be removed regardless of size, without replacement.
 - Require property owners to obtain a certification letter from a licensed arborist prior to emergency removal of significant trees, and permit within 30 days of said removal.
 - Clarify how funds from replacement and violations are handled.
 - Move regulations from Article X.5 MRTPD to respective sections in Chapter 33 UDC, reference MRTPD permits as part of the Appendix, delete provisions duplicated on the applications.

OLD METAIRIE COMMISSION RECOMMENDATION

On May 5, 2022, the OMC recommended approval (see OMC minutes).

PLANNING ADVISORY BOARD RECOMMENDATION

On May 12, 2022, the PAB deferred to May 26, 2022 (see PAB minutes).

On May 26, 2022, the PAB recommended approval (see PAB minutes).

CONTENTS

Background	4
Analysis.....	16
Conclusion and Staff Recommendation	33
References	60

BACKGROUND

On December 9, 2020, the Parish Council adopted Resolution No. 136707, which authorized the Planning Department and the Planning Advisory Board to study the text of Chapter 33 Unified Development Code, and Chapter 40 Zoning, more particularly Articles X. Old Metairie Neighborhood Conservation District (OMNCD) and X.5. Metairie Ridge Tree Preservation District (MRTPD), of the Code of Ordinances of Jefferson Parish.¹ The intent of the study is to evaluate and amend standards and procedures pertaining to tree preservation, including tree replacement, violations, enforcement, and penalties, and providing for related matters. The study was called in response to citizen concerns about unlawful removal of trees within the OMNCD.

Resolution No. 136707 also included the interim development standard that temporarily allows tree removal within the buildable area, but not the side yard in the OMNCD. This interim standard was extended six months via Resolution No. 138642, adopted by the Parish Council on December 8, 2021; and is set to expire on June 9, 2022.

Tree Preservation in Jefferson Parish

Certain base (R-1B, R-1C, and R-1D) and overlay zoning districts (MRTPD and OMNCD) require tree preservation of significant trees. The Code includes two lists of significant trees to be preserved and protected. Specific preservation requirements and permitting procedures vary by zoning district. Procedures for permitting tree removal and construction activities that require tree protection are provided in the OMNCD and MRTPD, but not specified in base districts where required. Tree removal is permitted for significant trees that meet certain criteria with required tree replacement or payment of a fee-in-lieu. General provisions and penalties are in place to address unlawful tree removal and related violations. Chapter 37 Vegetation of the Code addresses tree protection on public property, and review of this chapter is outside the scope of this study.

Significant trees that require protection

Significant trees are required to be protected on private property in certain base and overlay zoning districts throughout the Parish.

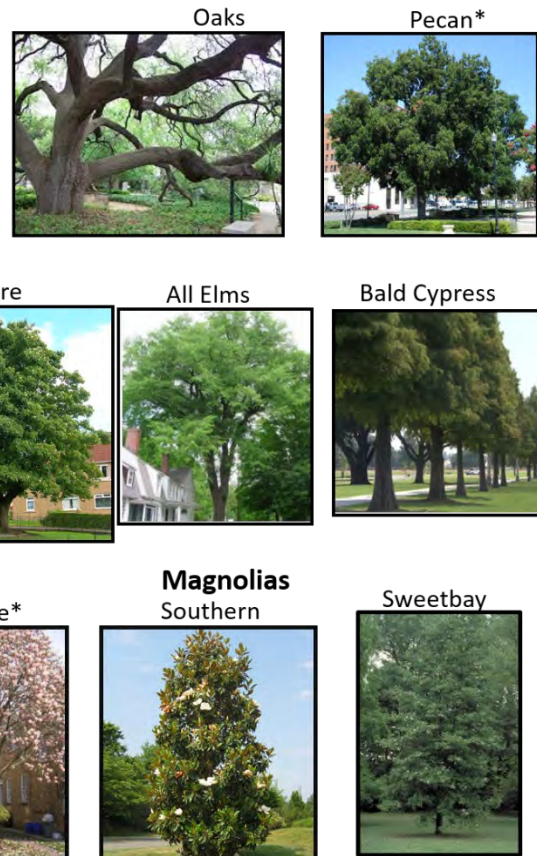
¹ Most of the OMNCD regulations were moved to Chapter 33, Sec.33-3.65 by Ordinance No. 26369 adopted by the Parish Council on February 16, 2022.

Significant trees are defined in the Code in terms of species type and size. Protected trees include all significant trees and other canopy trees where at least 50% of the base of the tree is located in a preservation area, and all replacement trees.

Per Sec. 33-6.27, significant trees include the following species that have a diameter breast height (DBH)² of eight (8) inches or greater:

- Live Oak;
- American Elm;
- Bald Cypress, except those located within fifteen (15) feet of a parking space or building foundation
- Southern and Sweetbay Magnolia; and
- Sycamore (See Figure 1, Table 1).

In addition to those specified in Sec. 33-6.27, all Oaks, all Elms, all Bald Cypress, Japanese Magnolias, Pecan, and any tree that contributes to the canopy that has a DBH of 24 inches or more considered significant in the MRTPD and OMNCD (See Figure 1, Table 1).³



*Species requires protection in the MRTPD and OMNCD only

*Species require protection in the MRTPD and OMNCD only

Figure 1. Visual graphic of significant tree species that require protection.

Table 1. Protected Trees with a DBH of eight (8) inches or more.

General Tree Preservation (Sec. 33-6.27)	MRTPD/OMNCD
Live Oak	All Oaks
American Elm	All Elms
Bald Cypress (except those within 15' of a parking space or foundation)	All Bald Cypress
Southern and Sweetbay Magnolia	Southern, Sweetbay, and Japanese Magnolia

² Diameter breast height (DBH) is defined in Sec. 33-10.2. and 40-178 as the diameter of a tree measured four and one-half (4½) feet above the ground level for existing trees. Diameter at breast height may appear as the abbreviation "DBH."

³ Jefferson Parish Code of Ordinances. Sec. 40-180. Preservation and maintenance of trees.

Table 1. Protected Trees with a DBH of eight (8) inches or more.

General Tree Preservation (Sec. 33-6.27)	MRTPD/OMNCD
Sycamore	Sycamore
	Pecan
	Any tree that contributes to the canopy that has a DBH of 24 inches or more


Common tree terminology in the Code

Common terms related to tree measurement and protection are provided in Sec. 33-10.2. and Sec. 40-178 of the Code and illustrated more clearly in Table 2 below.

Caliper is the diameter of the trunk, measured at 6 inches above the soil line or above final grade, on trees that measure 4" caliper or smaller. Over 4" caliper trees are measured one foot from the soil line. Since nurseries sell trees by trunk diameter, and larger trees sell for more, a uniform measuring point was developed at 12" above the ground. This diameter is called **caliper** to distinguish it from diameter breast height (DBH). **Caliper** is a measurement used when planting, and **DBH** measures its diameter at maturity (Table 2).⁴

The **drip line** is the farthest distance away from the trunk that rain or dew will fall directly to the ground from the leaves or branches of the tree. When required by the JP Code, significant trees shall be protected by a fence at the **drip line** of the tree or at a distance of ten feet from the trunk, whichever is greater, and using accepted tree protection techniques. The **root protected zone (RPZ)** represents the area within the tree's **drip line (Table 2)**. The Code includes provisions that aim to protect the **RPZ** during construction.

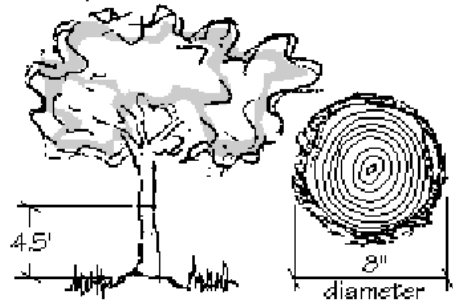
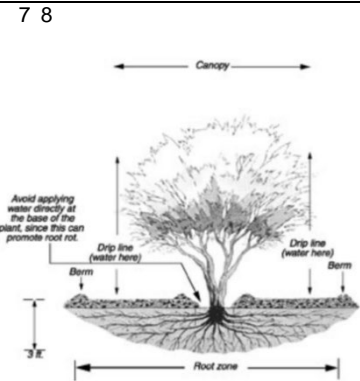
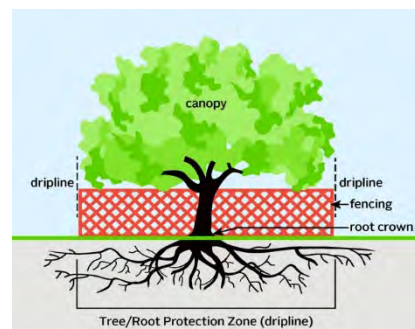
Table 2. Common terms related to tree preservation in the Code

Term	Definition	Graphic Illustration
<i>Caliper</i>	Diameter measurement of the trunk of a tree taken from a point six (6) inches above final grade.	⁵ 

⁴ Parish Landscape Architect. Richard Gillen. 2022.

⁵ *Watering newly planted trees and shrubs*. University of Minnesota Extension. [Watering newly planted trees and shrubs | UMN Extension](#)

Table 2. Common terms related to tree preservation in the Code

Term	Definition	Graphic Illustration
<i>Diameter breast height (DBH)</i>	Diameter of a tree measured four and one-half (4½) feet above the ground level for existing trees. Diameter at breast height may appear as the abbreviation "DBH."	 <p>6</p>
<i>Drip line</i>	The farthest distance away from the trunk that rain or dew will fall directly to the ground from the leaves or branches of the tree.	 <p>7 8</p>
<i>Root protection zone (RPZ)</i>	The area within the tree's drip line.	

Zoning districts that require tree protection

Tree preservation regulations apply to R-1B, R-1C and R-1D base districts and the MRTPD and OMNCD overlay zoning districts. Although, there are some general tree preservation provisions in Chapter 40 that apply to certain larger lot residential base zoning districts, most of the detailed tree preservation requirements are provided in Sec. 33-6.27 Tree preservation and apply to the MRTPD and OMNCD overlay zoning districts.

⁶ How to Measure DBH. [How to measure DBH - Treescape Certified Arborists \(treescapecanada.ca\)](https://www.treescapecanada.ca/how-to-measure-dbh/).

⁷ Drip line. [screen-shot-2016-09-20-at-12-50-39-pm.png \(513x449\) \(thedailygarden.us\)](https://www.thedailygarden.us/wp-content/uploads/2016/09/screenshot-2016-09-20-at-12-50-39-pm.png)

⁸ Root protection zone graphic. [TREE PROTECTION BROCHURE \(SMALLER COLOUR\) Page 2.jpg \(1825x1520\) \(halifax.ca\)](https://www.halifax.ca/files/2016/06/TREE-PROTECTION-BROCHURE-(SMALLER-COLOUR)-Page-2.jpg)

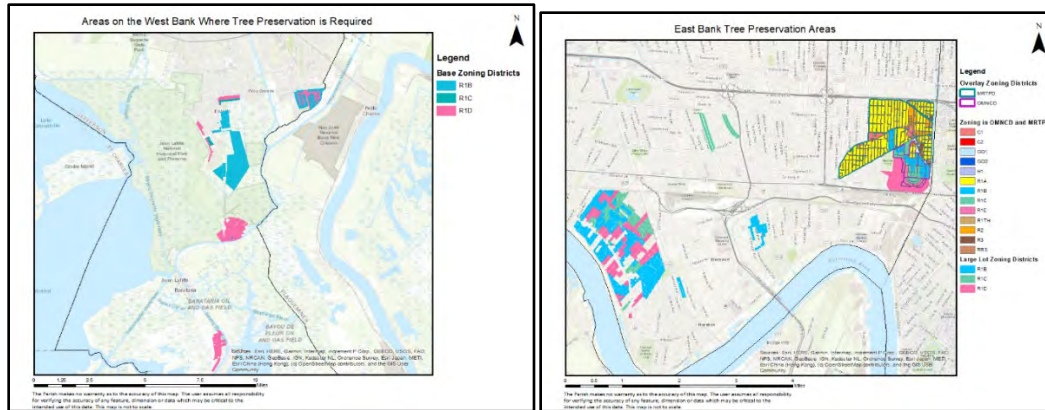


Figure 2. Zoning and Overlay Zoning Districts that currently have tree preservation requirements

The MRTPD and OMNCD overlay zoning districts have enhanced provisions for tree protection. Significant trees are required to be protected during construction and preserved in the OMNCD and MRTPD. In total, the MRTPD encompasses five hundred and seventy-nine 579 acres and the OMNCD encompasses one hundred and thirty-five 135 acres (Envision Jefferson 2040). This represents a combined four-point six percent (4.6%) of

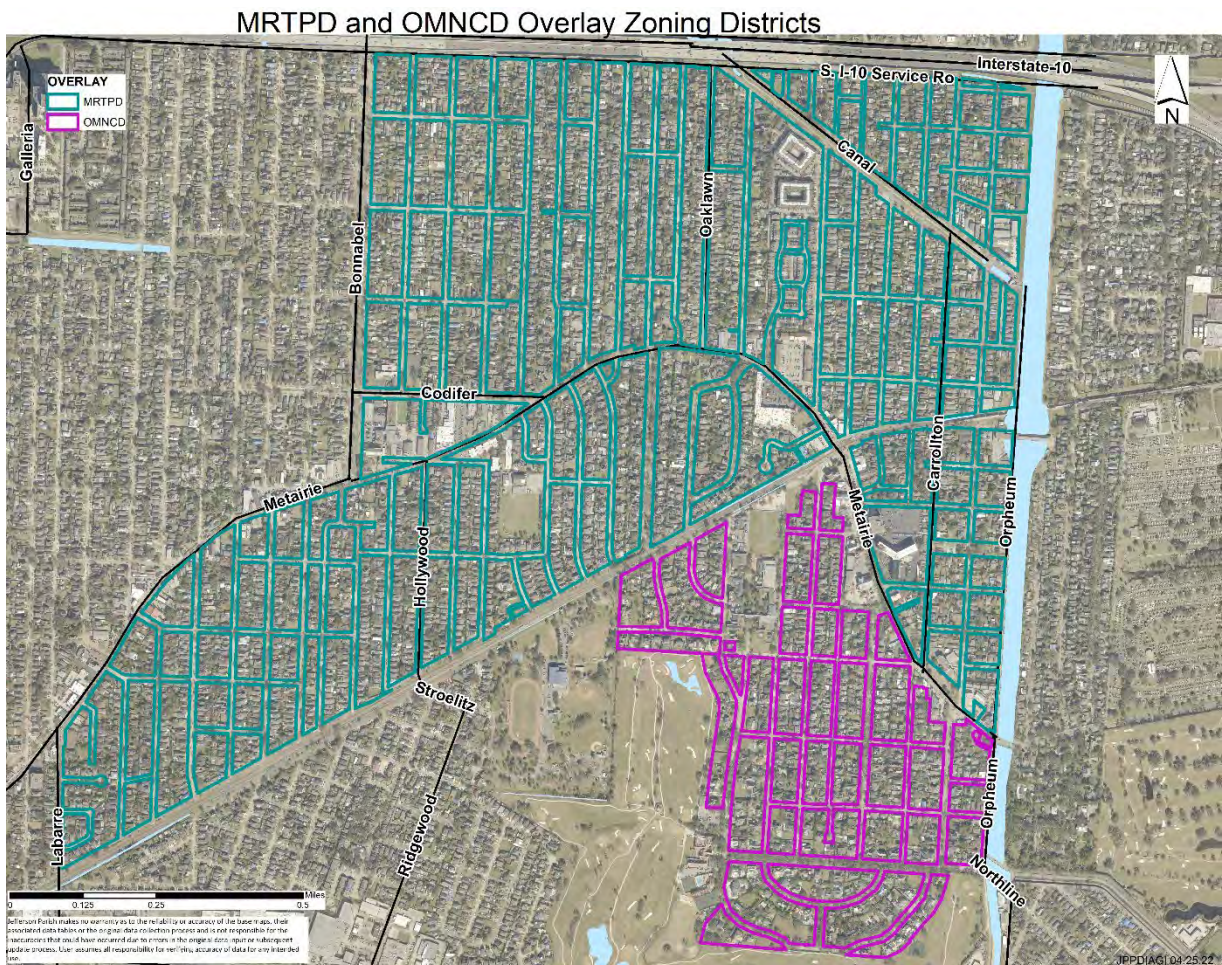


Figure 3. Enhanced tree preservation required in the MRTPD and OMNCD

the area on the East Bank (Figure 3).

Protection is required during construction activities. Construction activity, including excavation, filling, grading, trenching, demolition, construction, or other activity is prohibited within the root protection zone (RPZ). Property owners are required to erect a protective barrier around each protected tree or group of protected trees that are designated for preservation. The barrier is required to be erected and maintained at least one foot past the root protection zone of the protected tree(s), or ten feet from the base of the tree(s), whichever is greater (Figure 4). Only one access route to the site is permitted.



Figure 4. Example of tree protection barrier for protected trees

Additional activity restrictions apply within the RPZ for protected or significant trees. Various standards are in place for trenching, digging, boring and planting within the RPZ. Parking, storage, mixing, or dumping are prohibited. No soil fill greater than two inches other than wood chips or mulch, is allowed within the RPZ. Only permeable paving is permitted within the RPZs.

Removal of protected trees is permitted in certain circumstances. In the MRTPD, any tree, even if protected, with 50% base within “uncontested tree removal area” may be removed with the buildable area and required side yards with no replacement required (Figure 5).

Per the Code uncontested tree removal is not permitted in the OMNCD. However, the interim standards established with Res. No. 136707 and extended via Res. No.138642 temporarily allows uncontested tree removal of healthy trees within the buildable area, with no replacement required (Figure 5).

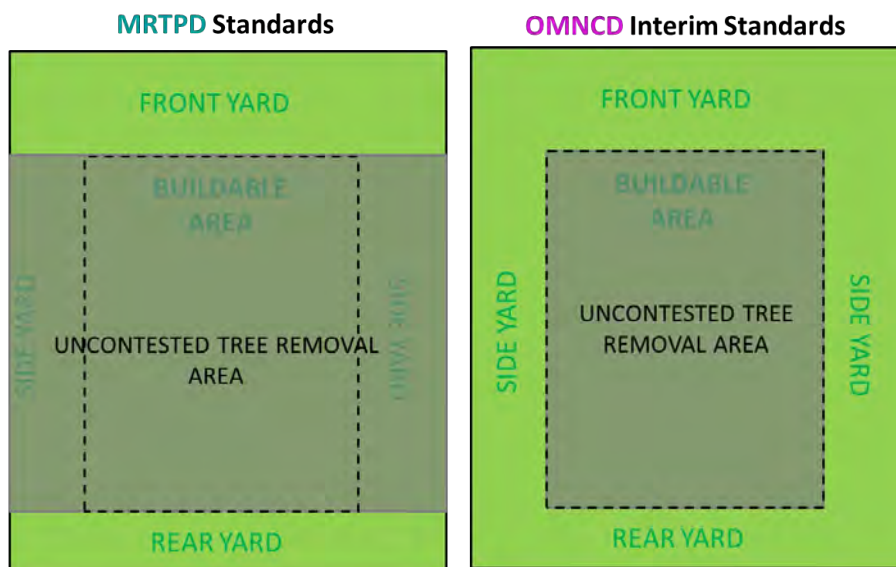


Figure 5. Uncontested Tree Removal Areas

Tree Replacement

In addition to the violations, existing permit requirements impose a 1:1 replacement, and in some cases a 2:1 replacement for trees removed outside of the buildable area or a payment-in-lieu equal to the cost of a replacement tree.

Tree removal of significant trees may be permitted provided the following criteria are met:

- The protected tree is diseased or hazardous, as certified by a licensed arborist.
- Where the buildable area is a preservation area, the protected tree is located in the buildable area and would substantially hinder the development of the site.
- Only the Parish Council may approve the cutting or removal of a heritage, historic, or landmark tree.

Permitted tree removal triggers required replacement or fee-in-lieu based upon current market value of required trees. Each protected tree that is to be replaced shall be replaced on-site with a tree of the same or similar species with a minimum trunk size of 2 ½ inch caliper. Trees determined by a licensed arborist to be hazardous or diseased may be replaced on a 1 tree:1 tree ratio, only if that determination is corroborated by the Parish Arborist. In all cases, the Parish Arborist's determination of the health of a tree shall prevail. A replacement tree must meet additional nursery standards.

Replacement shall occur within one calendar year of the date of the issuance of the approval for the removal. For tree removal associated with a building permit, trees shall be replaced before the issuance of the certificate of completeness by the Department of Inspection and Code Enforcement, but after the inspection and certification by the Parish Landscape Architect or Parish Arborist. For protected trees that must be replaced as a result of construction-related damage, replacement shall occur as soon as practicable given growing conditions in no case shall replacement be later than one calendar year after the protected tree was removed.

In lieu of replacement trees on the project site, the property owner may provide the monetary value of the replacement tree(s), as determined by the Parish Landscape Architect or Parish Arborist. The value is based upon the current market value for local nursery stock. The money is placed in a special parish fund dedicated to the planting or maintenance of trees on Jefferson Parish public property. In the OMNCD, payments paid in lieu of replacement are dedicated for tree planting and maintenance on public property and are prioritized by location in the first priority OMNCD, second priority MRTPD, and third priority District 5.

Tree removal permit and application process

Tree protection provisions of Chapter 40 apply to the R-1B, R-1C and R-1D districts; however, there have been no recent permits and there are no clear permitting procedures in the respective tree preservation regulations of each zoning district.

In the MRTPD, there are three different types of permits, tree removal only permits, minor

construction activity permits, and major construction activity permits. The procedures for each type of permit are described in Figure 6 below.

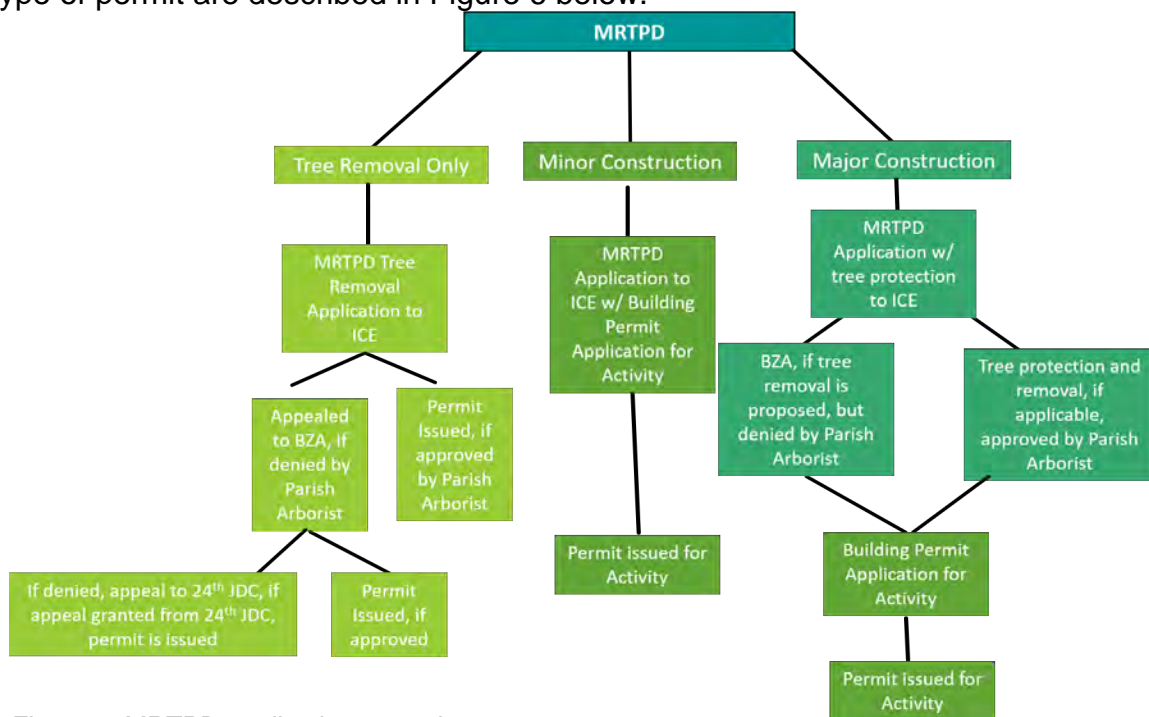


Figure 6. MRTPD application procedures

In the OMNCD, the application process for tree removal only is the same as the MRTPD. For tree removal associated with development in the OMNCD, tree protection and removal are evaluated by Planning or the Old Metairie Commission, as required, prior to the building permit being issued.

Violations

The aforementioned regulations are enforced through UDC Sec. 33-6.27.12., which imposes violations of up to \$500.00 for various penalties to the tree preservation provisions. In addition to the violations, existing permit requirements impose a 1:1 replacement for trees removed outside of the buildable area or a payment in lieu equal to the cost of a replacement tree. Proceeds from violations are allocated for planting or maintenance of trees on public property.

Penalties vary by types of violation.

- Damage to protected/significant tree due to non-construction – \$500 per tree.
- Unlawful tree removal – \$500 per tree.
- Submitting false information – Max. \$500 fine.
- Revocation of parish license for state licensed professionals for violations of the section.

Enforcement

Enforcement is typically complaint driven. The enforcement process is typically initiated when a complaint is received by the Department of Inspection Code Enforcement indicating a potential violation. In practice, the site is initially inspected by a Code

Enforcement Inspector, then inspected by the Parish Arborist or Landscape Architect. If the Parish deems a violation has occurred, a violation citation is then issued by the Code Enforcement Director, in practice. However, Code indicates that the Planning or Parkways Director in the Code issues the citation. Then the property owner is subject to adjudication through the Bureau of Administrative Adjudication (BAA) process. In some cases, the property owner then obtains a tree removal permit, and pays the violation penalties to Parkways.

History of Regulations

Tree preservation regulations have been in place in the Code for over 30 years. Amendments have been made to add more detailed standards and preservation requirements for the MRTPD and OMNCD, specifically.

The first tree preservation regulations were introduced in 1989 with the establishment of the R-1B, R-1C, and R-1D residential zoning districts. The standards established in 1989 have not been updated since they were established (E-35-89;Table 2).



Figure 7. Significant tree highlighted in the 1991 OMNCD report

Old Metairie Neighborhood Conservation District (OMNCD) and Metairie Ridge Tree Preservation District (MRTPD)

The Metairie Ridge area is one of the few areas of developed Jefferson Parish where a mature tree canopy exists.

Tree preservation and the reference to a tree registry was included in the original OMNCD ordinance adopted in 1992 (Table 2). These provisions were amended in 2002 to be more consistent with the general tree preservation requirements applied in the larger lot residential zoning districts (TXT-2-02;Table 2).

In the early 2000s residents of this neighborhood expressed their desire to protect this canopy against development pressures while not prohibiting new development. At the time, Metairie Ridge residents expressed concerns about tree loss in the community resulting from the demolition of existing homes and the renovation and construction of newer larger homes.

This resulted in the Parish hiring a consultant to study the overall tree inventory in 2003. In September 2004, the Council adopted Resolution No. 101928, which called for a study with the intent of creating an overlay zoning district, creating a Tree Protection Plan Review Committee, preserving all trees 8 inches diameter at breast height (DBH) and any Live Oak regardless of DBH, and providing for definitions, conditions and criteria. On February 2, 2005, the MRTPD overlay zoning district was established by the Parish

Council through Ordinance No. 22419 (TXT-9-04;Table 2).

The overall goal of the regulations, as stated in the original report, “was to protect the valuable tree canopy in the Metairie Ridge without imposing onerous restrictions on development”⁹. The MRTPD Study established specific tree preservation requirements and application procedures for the certain areas situated around Metairie Road (Table 2).¹⁰

In 2006, the Council adopted amendments to the MRTPD regulations in an effort to “streamline the application and review process for applicants and enforcement officials, clarify the intentions of the ordinance, while maintaining the integrity of the district (Table 2). In 2007, the OMNCD regulations were made consistent with the more specific and stringent standards and procedures applied in the MRTPD (TXT-5-07;Table 2).

Landscaping Study

On August 9, 2017, the Parish Council adopted Ordinance No. 25405 which consolidated landscaping and tree preservation in the Code, as well as added incentives for low impact development. The adopted amendments consolidated tree preservation standards into a new Sec. 33-6.27 Tree preservation, and included the transfer of certain tree preservation standards located in Chapter 40, Article X.5 MRTPD to Sec. 33-6.27 Tree preservation (Table 3).

The Planning Department originally recommended expanding districts for which tree preservation was required to include corridor-oriented districts, such as the Commercial Parkway Overlay Zone (CPZ), the Mixed-use Corridor District (MUCD), and the Commercial Parkway Pedestrian Overlay Zone (CPZ-Ped) to help realize the benefits of mature trees planted years ago and further beautify the commercial corridors in the parish. However, this component of the project received substantial opposition from the general public, and thus was not adopted as part of the final ordinance.

Table 3. Summary of Tree Preservation Related Amendments

Docket/ Ordinance No.	Subject	Description
E-35- 89/17856	Larger Lot Residential Zoning Districts	<ul style="list-style-type: none">• Established R-1B,R-1C, and R-1D zoning districts• Added existing tree preservation requirements in these zoning districts

⁹ MRTPD Study p.3.

¹⁰ MRTPD boundaries: Beginning at Bonabel Boulevard, to its intersections with Interstate 10 south to Metairie Road; Metairie Road south to North Labarre Road to the Norfolk Southern Railroad Tracks; the Norfolk Southern Railroad Tracks east back to Metairie Road; Metairie Road to the 17th Street Canal; north along the 17th Street Canal to Interstate 10; and west back towards Bonabel Boulevard.

Table 3. Summary of Tree Preservation Related Amendments

Docket/ Ordinance No.	Subject	Description
E-18-91/ 18547	OMNCD Study	<ul style="list-style-type: none">• Created the OMNCD• Added design guidelines and introduced general tree preservation requirement;• Authorized changes to the official zoning map as well as other district specific provisions.
TXT-2-02/ 21633	Tree Preservation in the OMNCD	<ul style="list-style-type: none">• Amended and clarified the tree preservation criteria in OMNCD regulations• Added required tree survey, 2:1 tree replacement, and tree protection fencing
TXT-9-04/ 22419	Metairie Ridge Tree Preservation District (MRTPD)	<p>Added the following:</p> <ul style="list-style-type: none">• A requirement that protected trees located in the public rights-of-way, front and rear required yards, and within 10' on abutting property be protected;• A list of significant trees to be protected;• Tree protective measures for protected trees during construction;• Uncontested tree removal areas where removal of protected trees was permitted without replacement;• Replacement requirements for removal of healthy, diseased, and hazardous trees;• Fee-in-lieu option as an alternative to replacement;• Application requirements and procedures for tree removal and building permits for all construction activities;• Provisions for subdivisions and special permitted uses;• Other definitions, standards violations provisions.
TXT-1- 06/27191	MRTPD Amendments	<ul style="list-style-type: none">• Separated construction activities into major and minor construction activities;• Reduced tree preservation requirements for minor activities;• Added exceptions and to applications and fee requirements; and• Clarified penalties for violations, of the ordinance will be assessed in addition to requiring the property owner to come into compliance with the ordinance.

Table 3. Summary of Tree Preservation Related Amendments

Docket/ Ordinance No.	Subject	Description
TXT-5-07/ 23201	OMNCD Fill	<ul style="list-style-type: none"> • Replaced general tree preservation requirements established in 2002 with reference to more detailed MRTPD tree preservation regulations plus a variety of other district-specific amendments.
TXT-1- 17/25405	Landscaping	<ul style="list-style-type: none"> • Consolidated existing landscaping and buffering requirements into new section in Chapter 33; • Permitted and incentivized low impact development; • Consolidated existing tree preservation standards into a new section Ch 33; • Clarified administration, interpretation, and enforcement of Code.
TXT-2- 21/26369	OMNCD Zoning Study	<ul style="list-style-type: none"> • Transferred OMNCD regulations from Chapter 40 to Chapter 33 • Streamlined tree removal only appeals to be sent to BZA without Planning Department and OMC review.

Unified Development Code (UDC)

A traditional approach to zoning may include separate chapters for zoning, subdivisions, floodplain, and other related regulations. A unified development code (UDC) functions as an alternative to a typical zoning code, with development related-zoning and subdivision regulations consolidated into a single code.¹¹ The UDC is designed to streamline and simplify the development process of permits and approval with the use of clear, concise language, graphics, and use of cross-references. Many local governments organize their regulations by common articles and utilize use matrices that clarify permitted uses and other requirements that are applicable to certain zoning districts.

The Parish Council created the UDC in Chapter 33 of the Code of Ordinances in February 2008 and populated it with subdivision regulations. Since its adoption, it has been the intent of the Parish to move all of the zoning regulations into Chapter 33.

As the Planning Department conducts studies and transfers zoning district provisions from Chapter 40 Zoning to Chapter 33, provisions for base and overlay zoning districts need to be reorganized and revised to be made consistent with the UDC format.

Both the Landscaping Study and the OMNCD Study transferred a substantial amount of

¹¹ American Planning Association. "Property Topics and Concepts." <https://www.planning.org/divisions/planningandlaw/propertytopics.htm>

substantive regulations related to this study from Chapter 40 to Chapter 33. The Landscaping Study moved most of the substantive tree preservation requirements in 2017, leaving mostly application and procedural provisions in Article X.5 MRTPD. Most of the OMNCD district regulations were recently transferred from Chapter 40 to Chapter 33 via Ordinance No. 26269 (TXT-2-21) adopted on February 16, 2022.

ANALYSIS

The following section provides a brief literature review on effective tree ordinances, evaluation of permits and issued violations, and assessment of issues within the parish's current regulations and approach to remedying them.

Literature review

Literature looking at tree preservation in the local government context highlights the benefits of effective tree ordinances in environmental protection. Trees provide necessary functions such as runoff and erosion control, shading and reduced heat island impacts, and reduced home energy costs from heating, as well as aesthetic and monetary benefits. As a result, a variety of research looks at how local governments can implement effective tree preservation ordinances.

Templeton and Rouse (2012) found common elements of municipalities that have implemented tree protection standards. The authors determine that communities need to be selective in their tree preservation ordinances to balance the limits of enforcement capability and the benefits of preservation. As such, the authors highlight preservation of the existing canopy as taking precedence over other measures. This can be done by applying minimum canopy coverage requirements and other efforts to encourage protection of the existing canopy. For properties where this cannot be done, the researchers state that replacement through tree planting is advisable. The authors also discuss the need for fee-in-lieu options, enforcement measures and the need for maintenance and watering requirements for replacement trees, all of which, they argue, should be included in successful ordinances.

The Templeton and Rouse (2012) Research highlights the Sandy Springs Georgia tree preservation ordinance as being particularly effective. That ordinance bases replacement fee in lieu costs on the theoretical size of what a tree would be at full maturity instead of on a per tree or per diameter basis. The research also notes that tree regulations should consider variations in zoning requirements, especially lot size variations, to determine the feasibility of accommodating trees on different sizes of lots.

Another consideration when looking at tree canopy ordinances is ensuring there is strong community buy-in and that fairness and equity concerns are addressed. Research by (Bernhardt and Swiecki 1991) states that it is critical that communities are supportive of whatever tree regulations are imposed for private trees (Bernhardt and Swiecki 1991). In some cases, they recommend education or incentive programs to emphasize that although trees are on private property, they are still a community asset worth preserving (Bernhardt and Swiecki 1991). Evidence also shows that poor and minority neighborhoods have lower tree canopy coverage than wealthier ones. New Orleans, for

example, highlights disparities in tree equity between areas of the city and the need to address it in a tree preservation study it conducted in 2020 (Cramer et al 2020). Similarly, a study on tree canopy in Boston, Massachusetts noted discrepancy in tree canopy between neighborhoods is an environmental justice issue that needs to be addressed (Cheng et al 2014). These studies both highlight the need to increase canopy in more underserved areas in addition to areas overall.

The American Planning Association published *Planning the Urban Forest: Ecology, Economy, and Community Development* where it quantifies the value of trees with respect to air pollution and provides recommendations for effective preservation. The study states that ordinances should be flexible in the types of trees it seeks to preserve and that providing for new trees is critical in any ordinance. The report also notes how communities in hurricane vulnerable regions, such as Jefferson Parish, should focus on replacement with native, hurricane-hardy trees such as Live Oaks (Schwab, 2009).

Research from Nowak and Greenfield (2012) shows that New Orleans saw the greatest tree loss in the period between 2005 and 2009 compared with 19 other major U.S. cities, largely as a result of Hurricane Katrina. The total canopy loss during this period was - 9.6%. More recent hurricanes, including Hurricane Ida in 2021 have likely further contributed to tree canopy loss in Jefferson Parish and the MRTPD and OMNCD, particularly from water oaks, pecan trees, and elms.¹² Per a conversation with the Parkways Department, Jefferson Parish lost approximately 1,000 trees on parish rights-of-way as a result of Hurricane Ida.¹³ These circumstances all present the need for replacement planting that rectifies these setbacks and helps ensure a healthy, resilient tree canopy moving forward.

Community Comparison

As part of the analysis for this report, Staff looked at other jurisdictions in Louisiana and the gulf coast region, as well as other national jurisdictions similar to Jefferson Parish with tree ordinances. The research includes locations with jurisdiction-wide regulations pertaining to tree preservation and some with special tree preservation districts. The Community Comparison chart at the end of this section shows the jurisdictions staff consulted including violation amounts and tree replacement requirements for each, where applicable.

Tree ordinances in other communities vary in their goals. Some, including many in suburban Atlanta, require a percent total canopy coverage for lots and require replacement trees necessary to meet those requirements. Other communities, including most of the ones identified in this research, focus on the preservation of protected or specimen trees. Still others require specific numbers of trees within on a lot or within a setback. The procedures, violations, and replacement requirements vary by community by how to meet the ordinance goals.

Within Louisiana, jurisdictions regulate trees in a few ways. The City of New Orleans has

¹² Rich Gillen, Parish Arborist, 2021.

¹³ Bryan Parks and Laura Camper, March 2022.

requirements for tree removal on public property including street trees but does not have requirements for private property and does not have replacement requirements for private property. St. Tammany Parish regulates the removal of Live Oaks on private property, requiring that replacement trees be planted for the removal of any Live Oak with a caliper (diameter) of 6 inches or more. St. Tammany Parish allows for Live Oak removal “if the live oak tree denies or precludes reasonable use of a parcel of property.” In such cases, applicants must replace the live oaks with an equal number of inches of Live Oaks and must follow any other conditions imposed as condition of application approval (Sec. 130-1975 (C)(3)).

Mandeville requires that at least fifty (50%) percent of existing trees larger than three inches diameter breast height (DBH) within setbacks be preserved in low density residential districts. The city also has specific requirements for the number of trees per lot by lot size. If a tree must be removed, replacement is required at a rate of one (1) class A tree for one (1) class A tree for trees removed smaller than six (6) inches in DBH. Class A trees larger than (6) inches in DBH must be replaced at a rate of one (1) class A tree for every six (6) inches. Any removal of trees in violation of the ordinance must be replaced under an enhanced replacement schedule of an inch for an inch, with all replacement trees being at least two (2) inches in diameter. Alternatively, a property owner may pay into the landscape mitigation fund the amount equal to the replacement and planting costs.

Outside of Louisiana, some communities, like Homewood, AL and Hanover Township, NJ have replacement requirements that prescribe replacement trees based on tiered DBH thresholds. Homewood maxes out at three (3) replacement trees per tree removed for larger diameter trees and Hanover maxes out at seven (7).

Instead of requiring a specific number of trees based on DBH, other communities, like Biloxi, MS and Bloomfield Township, MI, and Houston, TX impose scaled replacement commensurate with DBH. For example, trees in Biloxi removed with a DBH over ten (10) inches must be replaced with trees with a cumulative caliper equal to the removed trees, and Houston requires protected trees removed to be replaced on a one (1) for one (1) caliper basis. Bloomfield Township requires replacement based on a fraction of the total DBH removed. Communities like Cherokee County, GA have sliding scales for replacement based on the size of the tree removed, but provide different scales for measuring tree size to base the replacements on (density unit value).

To enforce tree protection measures, jurisdictions in Louisiana and nationally impose fines, and in many cases, replacement or fee in lieu requirements. St. Tammany Parish, Mandeville, and Slidell all have fines of upwards of \$500.00 per tree removed illegally. Uniquely, Covington imposes a \$500.00 fine per DBH inch where trees are removed unlawfully. These amounts reflect the state cap in municipal violations penalty which is currently set at \$500.00.¹⁴

In Biloxi, MS, the maximum fine is \$1,000.00 and replacement trees must have a

¹⁴ LA RS 33:1243 <https://law.justia.com/codes/louisiana/2019/revised-statutes/title-33/rs-1243/>

cumulative DBH that is equal to or greater than the illegally removed tree(s). Within the Atlanta Metropolitan area, Fulton County, GA, imposes a \$1,000.00-max fine per violation per day with no limit on fine accrual and Cherokee County imposes fines based on the type of violation, with illegal removal of heritage and specimen trees triggering \$1,000.00 fines and tree replacement at three (3) and eight (8) times the density unit value of the removed tree.

Winter Springs, FL and Lake Forest, IL, similar to Covington, LA, impose fines for illegal removal per inch of the tree removed, allowing for significant total violations. Winter Springs puts a cap on fines at \$5,000.00 per tree.

Jurisdictions looked at for this study generally did not tailor replacement requirements based on whether a tree is within the buildable area of a lot. St. Tammany Parish, for example, allows for removal of Live Oaks when removal is necessary to build on a lot, but still requires replacement trees. Bloomfield Township, MI states there is no distinction based on where on the lot a tree is removed from for calculating replacements.

The health of the removed tree did factor into replacement for some communities. St. Tammany Parish, for example, reduces the number of required replacement Live Oak trees depending on a scaled health grade of the tree.

Table 4. Louisiana Community Comparison Chart

Louisiana Jurisdictions	Violation	Replacement and other Requirements
St. Tammany Parish¹	Up to \$500.00 per day	<p>For Removal of Live Oaks: Replacement trees. Removal of any six inches in caliper or greater, live oak tree shall be replaced with an equal number of inches of live oaks at a minimum of 2.5 live oaks.</p> <p>Dependent on health of tree: Grade A: 100% Replacement Grade B: 75% Replacement Grade C: 50% Replacement Grade D: No Replacement</p> <p>Removal allowed in cases where tree would limit ability to build on the property but must follow the above replacement requirements.</p>
Mandeville, LA²	Up to \$500.00 per tree per day	<p>All larger lot residential districts (includes most residential) must retain at least fifty (50%) percent existing trees larger than three (3) inches DBH and all lots must have a minimum number of trees per lot and per setback.</p> <p>Replacement:</p>

¹ Code of Ordinances of the Parish of St. Tammany. Article VI Supplemental Standards. Section 130-1975 Tree preservation. [Link to Code](#)

² Code of Ordinances of the City of Mandeville, LA. Article 9 Parking, Landscaping and Open Space Regulations. Section 9.2.5.16 Violations. [Link to Code](#)

Table 4. Louisiana Community Comparison Chart

Louisiana Jurisdictions	Violation	Replacement and other Requirements
		<ul style="list-style-type: none"> Class A trees removed below six (6) inches DBH must be replaced by one (1) class A tree of two (2) inches DBH Class A trees larger than six (6) inches must be replaced by one class A tree for every six (6) inches removed. <p>For trees removed without a tree removal permit, trees must be replaced on a 1:1 diameter basis.</p> <p>For trees that can't be planted back on original property, owner may pay into Landscape Mitigation Fund amount equal to the cost associated with purchasing and planting the remaining replacement trees</p>
Covington, LA³	Up to \$500.00 per violation	Every caliper inch of tree cut, cleared, removed, caused to become diseased or die, shall constitute a separate offense and may result in a ticket or fine. Each separate day upon which a violation occurs shall be a separate violation of this section.
Orleans Parish, LA⁴	None on private property	None on private property
Central, LA⁵	\$150.00 per tree per day	Not specified
Slidell, LA⁶	Up to \$500.00 per violation	Not specified

Table 5. National Community Comparison Chart

National Jurisdictions	Violation	Replacement and other requirements
Biloxi, MS⁷	A fine not exceeding \$1,000.00 for each day a violation continues to exist.	<p>1. Replacement of Trees with Ten-Inch DBH or Greater</p> <ul style="list-style-type: none"> Any tree with a DBH of ten inches or larger that is accidentally damaged or removed within a tree protection zone shall be replaced by one or more trees with a caliper of at least three and one-half inches and a cumulative caliper equal to or greater than that of the damaged or removed tree(s).

³ Code of Ordinances City of Covington, LA. Chapter 102. Vegetation. Article 1. Trees on Private Property. Sec. 102.7 Violations and penalties. [Link to Ordinance](#)

⁴ City of New Orleans Comprehensive Zoning Ordinance. Article 23. Landscape, Stormwater Management, & Screening. 23.10 Tree Preservation. [Link to Ordinance](#)

⁵ Code of Ordinances of the City of Central, LA. Chapter 18. Landscape, Clearing and Trees. Section 7.18.12 Violations and penalties. [Link to Code](#)

⁶ Code of Ordinances of the City of Slidell, LA. Appendix A – Zoning. Section 2.25. – Protection of existing trees and landscaping requirements.

⁷ City of Biloxi, Mississippi Land Development Ordinance. Article 23-6 – Development Standards, 4 – Tree Protection. [Link to Code](#)

Table 5. National Community Comparison Chart

National Jurisdictions	Violation	Replacement and other requirements
		<p>2. Inch-for-Inch Replacement Required</p> <ul style="list-style-type: none"> Any other tree that is damaged or removed within a tree protection zone shall be replaced with one or more trees that have a caliper of at least two inches and a cumulative caliper equal to or greater than that of the damaged or removed tree(s).
Fulton County, GA⁸	\$1,000.00 per violation per day	Not specified
Cherokee County, GA⁹	Not less than \$1,000.00	<i>Heritage Tree</i> : Replacement at 8 X the “density unit value”
Houston, Texas¹⁰	Up to \$500.00 per day per violation	<p>Protected trees removed must be replaced at a rate of one caliper inch of tree planted for one caliper inch of tree removed.</p> <p>An applicant may also satisfy the replacement requirement through earned tree credits or by contributing to the designated tree fund in an amount equal to</p> <ol style="list-style-type: none"> 1) \$225.00 per caliper inch of tree removed for a 6 inch caliper tree and smaller 2) \$375.00 per caliper inch of tree removed for over 6 inch and up to 12 inch caliper trees, or 3) \$500.00 per caliper inch of tree removed for over 12 inch caliper trees 4) if the tree is a corridor tree or green corridor tree, \$127 per caliper inch of tree removed. <p>Protected trees approved for removal must be replaced with a comparable tree species.</p>
Mobile, AL¹¹	\$500.00 per violation	In all cases where removal is permitted, the said tree shall be relocated if deemed feasible by the Urban Forester and the cost of relocation does not exceed five hundred dollars \$500.00.
Lake Forest, IL¹²	\$750.00 per violation	Every inch of the tree measured at DBH is a separate violation.
Homewood, AL¹³	Destruction of each protected tree constitutes a separate offense.	<ul style="list-style-type: none"> Heritage trees must either preserved or relocated where possible. Heritage trees removed within the buildable area must follow the same replacement requirements as outlined

⁸ Code of Ordinances of the County of Fulton, GA. Article VI. Fulton County Tree Preservation. Section 26-408. Fines and penalties. [Link to Code](#)

⁹ Code of Ordinances of the County of Cherokee, GA. Article 27. Tree Preservation and Replacement Ordinance. 27.4 Violation and penalties. [Link to Code](#)

¹⁰ Code of Ordinances of the City of Houston, TX. Article VI. Protection of Certain Trees. Section 33-158. Penalty; civil remedies. [Link to Code](#)

¹¹ Code of Ordinances of the City of Mobile, AL. Chapter 65 – Tree Protection and Management. [Link to Ordinance](#)

¹² Code of Ordinances of Lake Forest, IL. Chapter 99: Tree Preservation and Landscaping. Section 99.999 Penalty. [Link to Ordinance](#)

¹³ Code of Ordinances City of Homewood, AL. Article 3. Tree Conservation Regulations. [Link to ordinance](#).

Table 5. National Community Comparison Chart

National Jurisdictions	Violation	Replacement and other requirements												
	Failure to replant sufficient trees shall constitute a separate offense for each month violation goes uncorrected.	in the article.												
		<ul style="list-style-type: none">Homewood specifies that at least one replacement tree be planted within the front setback.The number of replacement trees are based on the size of the tree removed per the chart below.												
		Min Existing tree	Non-Heritage Replacement Tree(s)	Heritage Replacement Tree(s)										
		6-18” DBH	1 Tree	2 Trees										
		19-36” DBH	2 Trees	2 Trees										
		>36” DBH	3 Trees	3 Trees										
Hanover, NJ ¹⁴		<table><tr><td>DBH of Removed Trees</td><td>Required Number of Replacement Trees</td></tr><tr><td>6 to 11.99 inches</td><td>1</td></tr><tr><td>12 to 23.99 inches</td><td>3</td></tr><tr><td>24 to 35.99 inches</td><td>5</td></tr><tr><td>36 inches or greater</td><td>7</td></tr></table>			DBH of Removed Trees	Required Number of Replacement Trees	6 to 11.99 inches	1	12 to 23.99 inches	3	24 to 35.99 inches	5	36 inches or greater	7
DBH of Removed Trees	Required Number of Replacement Trees													
6 to 11.99 inches	1													
12 to 23.99 inches	3													
24 to 35.99 inches	5													
36 inches or greater	7													
Winter Springs, FL ¹⁵	<p>Removal of a tree without a permit: Fine of fifty dollars (\$50.00) per caliper inch, not to exceed five thousand dollars (\$5,000.00) per tree.</p> <p>Removal of a specimen or historic tree without a permit: Fine of one hundred dollars (\$100.00) per caliper inch, not to</p>													

¹⁴ Hanover Township, NJ. Section 66-131. Tree preservation, removal and replanting. [Link](#)

¹⁵ Code of Ordinances City of Winter Springs, FL. Chapter 5 Tree Protection and Preservation. Section 5-9 Tree Replacement Guidelines. [Link to ordinance](#).

Table 5. National Community Comparison Chart

National Jurisdictions	Violation	Replacement and other requirements	
	exceed five thousand dollars (\$5,000.00) per tree.		
Bloomfield Township, MI¹⁶		Type	Replacement Requirements
		Protected Trees	50% of total DBH removed
		Landmark Trees	100% of total DBH removed
		<ul style="list-style-type: none"> Requires replacement of protected trees damaged during construction of 1:1 per DBH. No distinction made based on location of tree on property. Replacement may not be required depending on health of the tree. 	

As an alternative to the permit and violation criteria outlined above, St. Augustine, FL has stipulations for “after the fact” tree removal permits. The city has a sliding scale for application fees for such permits based on DBH that range between one hundred (\$100.00) and eight hundred (\$800.00) dollars per tree.¹⁷ Other communities simply require a permit in order to resolve existing violations.

Permit and Violations

Permit research for tree removal within the MRTPD and OMNCD shows there were 185 tree removal permits granted between January 1, 2019 and August 19, 2021, for a total of at least 393 trees removed. Fifteen (15) tree removal permits were denied during this same period.

Replacement and Remediation

Of the permits granted, forty-nine percent (49%) did not require any remediation. Of the remaining applications, 46% opted for the tree replacement option and five percent (5%) opted for the fee in lieu option. For permits where tree remediation was not required, the reasoning fell about equally between trees being in the buildable area and trees falling below the required DBH threshold. In some cases, trees would meet both requirements. For remediation where the fee in lieu option was chosen, the Parish Arborist has been

¹⁶ Ordinance No. 608. An Ordinance to Preserve and Protect Trees. [Link](#).

¹⁷ St. Augustine Florida Code of Ordinances. Chapter 25 Trees and Private Property. Sec. 25-56 Tree Removal and Replacement. https://library.municode.com/fl/st._augustine/codes/code_of_ordinances?nodeId=PTIICOOR_CH25TRLA/

imposing a \$1,000.00 replacement fee per tree. The maximum fee in lieu payment over the 2019 to 2021 period was \$2,000.00 representing two (2) trees (Figure 8).

Of the denied tree removal permits, five (5) were within the OMNCD. Three of which went to the Board of Zoning Adjustments and all were granted approval.

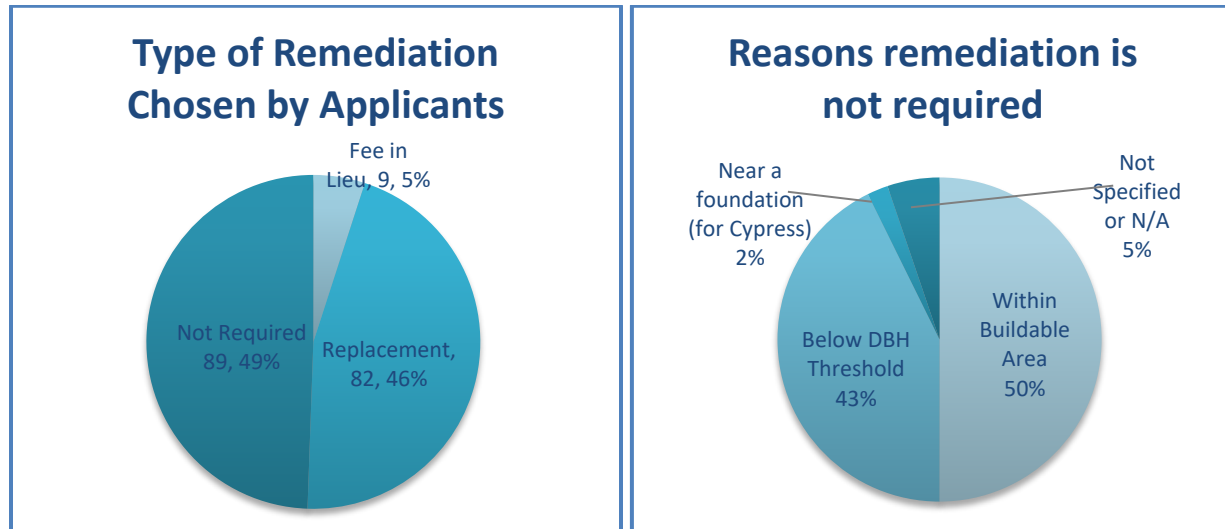


Figure 8. Type of remediation chosen for granted permits and reasoning provided for not requiring remediation, if applicable

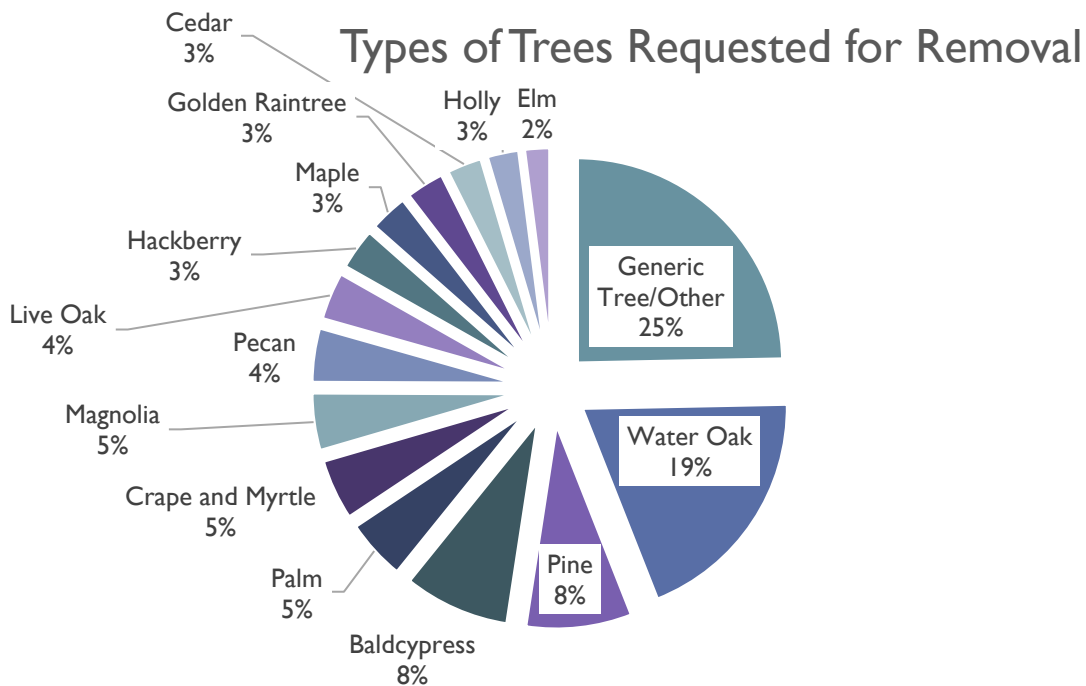


Figure 9. Requests for permits by tree type between January 1, 2019 and August 19, 2021.

Species

Of trees for which removal permits were requested, Water Oaks and Pines represented the trees with the largest proportion of removal requests, with nineteen percent (19%) and eight percent (8%), respectively. Bald cypress and Palms represented another combined thirteen percent (13%) of removal requests

Concentration of Tree Removal Permits

Staff Identified a cluster of tree removal permits in OMNCD and MRTPD between January 1, 2019 and September 14, 2021. No tree removal permits were issued for other areas of the Parish (Figure 10).



Figure 10. Map of distribution of all tree removal permits granted between January 1, 2019 and September 14, 2021.

Violations

In addition to imposing replacement and fee in lieu requirements for certain tree removals through the permitting process, the Parish also issues violations on occasion. These violations are for illegal removal of protected trees or failure to protect trees during construction activities. According to the Department of Inspection and Code Enforcement (ICE), illegal tree removal is not common. This is due to awareness of the Parish's tree protections and watchful citizens. Between January 1, 2019 and September 14, 2020, there were only 6 violations issued relating to tree preservation in the MRTPD and OMNCD. Of these, one (1) was for failure to protect trees during construction and five (5) were for removing trees without a permit.



Figure 11. Bar graph of all tree preservation violations issued by Jefferson Parish between January 1, 2019, and September 14 2021

Based on the permit and violations research, staff recommends focusing on enhancing requirements for tree replacement. From 2019 until August 19, 2021 there were only nine (9) times when the fee in lieu option was chosen by property owners, accounting for \$11,000.00 in total dollars generated for the Parish. By comparison, the tree replacement option was chosen 82 times, or ninety-one percent (91%) of the time when remediation was required.

Issues with Current Regulations and Recommendation Approach

In review of the current tree preservation regulations in the Code, Staff identified issues related to tree removal and protection, tree replacement, violations, enforcement, and other related matters.

Tree Removal and Protection

Base Zoning District Regulations

The current tree preservation provisions in the larger lot base zoning (R-1B, R-1C, R-1D) districts are vague and conflict with general tree preservation requirements.

In these zoning districts the Code states that development shall, to the greatest extent possible, include the preservation of all significant trees larger than 8 in. DBH and determined to be a significant tree" by Parkways. Additional regulations include:

- Prior to the clearance of the site, applicants must submit a tree survey on a site plan .

- The location of the trees to be preserved shall be incorporated in the design of the parking lot and building layout of the development.
- All significant trees requiring removal shall be replaced by the planting of at least 2 trees of a similar species.
- Replacement trees shall be in addition to all other landscaping requirements.
- During construction, the significant trees shall be protected by a fence at the drip line of the tree or at a distance of 10 feet from the trunk, whichever is greater, and using accepted tree protection techniques.

Some the above referenced regulations are vague and may not be applicable to residential uses permitted in the zoning district. For example, the provisions reference a required tree survey and use of acceptable protection technique without any additional guidance related to permitting procedures or specific protection standards. One of the provisions states that the location of the trees to be preserved shall be incorporated in the design of the parking lot and building layout of the development, however the primary land use permitted in these zoning districts, single-family dwellings, typically don't include a parking lot. There are no references to the tree preservation section in Ch. 33-6.27 in the R-1B, R-1C, and R-1D tree preservation sections. Although there have been multiple changes to the tree preservation requirements applied to the MRTPD and OMNCD, these provisions have not been changed since they were established 33 years ago.

There have been no permits for tree removal in areas zoned R-1B, R-1C, or R-1D without the overlay in recent years. As of March 10, 2022, 6,868 lots are zoned R-1B, R-1C, and R-1D. Almost 10% of the lots (679 lots) zoned R-1B, R-1C, and R-1D are also mapped with either the OMNCD and MRTPD overlay zoning. Apart from the Metairie Ridge area and portions of River Ridge, the R-1B, R-1C, and R-1D is mapped on certain areas of the Parish, like Stonebridge and Crown Point neighborhoods on the West Bank, where there may not be a concentration of significant trees. Deleting these outdated and vague regulations in the R-1B, R-1C, and R-1D will simplify standards and eliminate potential conflicts within the regulations.

[MRTPD and OMNCD regulations](#)

In the MRTPD, any tree, even if protected, with 50% of its base within the uncontested tree removal area, may be removed. The uncontested tree removal area consists of the buildable area and the required side yard setbacks. The property owner must still submit an application for tree removal and be approved for such removal by the Parish. This standard allows the Parish to verify that the proposed tree removal is in fact within the uncontested area. This area does not apply in the OMNCD in the Code.

This current restriction in the Code for tree removal in the OMNCD, especially within the buildable area can be potentially burdensome to a property owner or applicant. Challenges in obtaining home insurance and the potential threat to safety and structure are some concerns addressed in previous cases where property owners petitioned to remove a healthy tree from the buildable area.¹⁸

The minimum width or depth for tree maintenance and planting is five feet. This distance is referenced throughout the general landscaping requirements provided in Sec. 33-6.25. *Landscaping, buffering and screening*. Most of the lots (84%) in the OMNCD have to meet side yard setback requirements that exceed five feet, and thus large enough to maintain and protect a tree during construction.¹⁹ Therefore, tree removal should be allowed in the buildable area, but not within the side yards.

Based on the tree removal permit information, fifty percent (50%) of trees not requiring remediation were a result of the tree(s) being within the buildable area. Many of these trees are on the larger side, making their absence notable compared to the removal of smaller trees below the protected DBH thresholds. The uncontested removal of significant trees to accommodate the construction of large homes has potentially impacted the tree canopy of Old Metairie. This was one of the primary concerns outlined in the original MRTPD report from 2005. Without replacement planting there is nothing to ensure the future canopy is not reduced in these circumstances. The Planning literature and regulations addressed in the community comparison of this report suggest that increasing the replacement requirement can act as both a form of discouragement for unlawful removal and a tangible way to increase the tree canopy.

Thus, new replacement requirements, within the buildable area in the OMNCD, and the uncontested tree removal area (buildable area and side yards) in the MRTPD, will help promote and help enhance the tree canopy within the neighborhood for which they are mapped.

Currently there are two separate lists of significant trees, one applied in the general section, and one included in the MRTPD with more species and other trees that require protection. Having two different lists can be confusing and redundant, especially with proposed changes that would focus tree preservation to the OMNCD and MRTPD.

Consolidating the MRTPD and general tree lists into a single list of significant trees will simplify and streamline standards. Based on the permit research, the Water Oak was the most common species requested for tree removal. According to the LSU Ag Center, water oaks' wood is relatively weak to other oaks, which make them potential hazardous during wind and storm events. These trees can be hazardous if located near homes, improvements, and parking areas. They also start to rot at around 50 years old and have shallow root systems, which limit vegetation that can be grown under them.²⁰ Water oaks

¹⁸Examples of cases include OM-2-14 Radford residence and OM-30-15 Ford Tree Removal.

¹⁹Side yard setbacks for R-1B is 7 feet for interior side yards and 10 feet for corner side yards; R-1C is 10 feet; and R-1D is 15 feet.

²⁰Hawkins.K. Water oak problematic as urban and suburban trees." <https://www.lsuagcenter.com>

are also listed on the Department of Parkways prohibited species list. Removing the Water Oak species for the protected list would be consistent with Department of Parkways restriction and industry best practices.

Adding a prohibited list of trees, similar to the Department of Parkways, will help clarify which invasive or non-resilient species are unsuitable for replacement nor require protection.

Tree Replacement

In Chapter 33, tree replacement ration is one tree for one tree 1:1, for both healthy and hazardous or diseased trees. Other communities have more strict replacement requirements. Several jurisdictions in Louisiana require replacement based on the diameter of the tree. For example, Mandeville requires replacement based on a 1 inch:1inch DBH ratio. Imposing requirements for trees removed based on the diameter of the tree, would better effectuate the goal of increasing the number of desirable trees in these areas and would be a way to resolve resident concerns around the removal of large trees. Due to size of the quantity of significant trees on certain properties, implementing a strict 1-inch:-1 inch DBH ratio may be burdensome for some property owners. Thus, a mixed approach to replacement, as listed below, is more appropriate.

Proposed Approach for Replacement:

- *Trees with 12-inch DBH or less*= 1-inch DBH: 1-inch caliper ratio
- *Trees with over 12-inch DBH*= 1-inch DBH: 1-inch caliper ratio for first 12 inches of DBH, plus \$100 per inch DBH thereafter
- *Emergency, hazardous or diseased trees*= may be replaced on a one tree to one tree (1:1) ratio.

Establishing a replacement ratio based on DBH and caliper is a way to ensure the value and size of a significant tree is factored into the replacement requirement. Typically, new trees ready for planting have calipers ranging from 2-4 inches. Replacing large trees based on DBH will require, in many cases, several new trees to be planted. Limiting the replacement requirement to the first 12 inches DBH with an additional fee of \$100 per inch DBH thereafter is a way to recoup the monetary value of the tree proposed for removal, while being reasonable in terms of the number of trees that are required for replacement. This approach will allow greater flexibility for sites with large and/or multiple significant trees.

For example, a Live Oak with a 24 in. DBH would be required to be replaced with a significant tree or trees that total at least 12 inches in caliper. In addition, the property owner would be required require to pay \$100 per inch DBH for the remaining twelve inches.

Maintenance

Currently, there are no maintenance requirements for replacement trees. Maintenance

requirements for other types of development in the Parish will help ensure the health and the longevity of the tree canopy. Similar requirements already apply to development where landscaping is required in accordance with Sec. 33-6.25 Landscaping, buffering, and screening.

Adding general maintenance and inspection approximately one year after planting will help ensure that replacement trees have been cared for and are healthy. In addition to maintenance, clarifying that replacement trees shall be maintained over the lifetime of the development will help protect the tree canopy in the future.

Violations

Staff identified several issues with the existing tree violations in the Code. The language for violations is different within the tree preservation section in Chapter 33 and the rest of the Code. Penalties even vary based on type of violations. Additional fines associated with illegal tree removal tend to be less than the monetary value of significant trees that are removed. The processes for compliance, replacement, and handling proceeds from violations are vague.

The state of Louisiana currently has a maximum fine that municipalities can impose for violations of \$500.00 dollars.²¹ A bill was introduced in the State assembly in 2020, to increase this amount to \$950.00 but it was not approved ([LA House Bill 638](#)). With this limitation, along with the fact that Jefferson Parish does not issue many violations for code infractions relating to trees, theoretically increasing the dollar amount of violations would have little impact.

Stating that a \$500 fine may accrue per violation, per day they are not resolved, will clarify fines assessed and may motivate individuals in violation to come into compliance.

The Code is unclear if those in violation of the Code are subject to penalties from non-compliance with the Code in addition to required replacement/ fee-in-lieu. By clarifying that those in violation of the tree preservation regulations shall pay the violation fee and then obtain a permit, including replacement and/or fee-in-lieu is a way to bridge the gap between the state's fine maximum and the true monetary value of significant trees.

The unlawful removal of trees is one of the most egregious violations of the tree preservation section of the Code. Doubling (2x) replacement for unlawful tree removal in addition to monetary fines for violating the Code will help deter this type of offense in the future.

Stating that all monetary proceeds from fines imposed from tree replacement and tree violations, excluding court costs, shall be paid to the Department of Parkways and shall be placed in a special account dedicated to the planting, repair, or maintenance of trees on public property will allow Parkways to utilize funds in variety of work related to trees on Parish rights-of-way. This clarification will help promote tree planning throughout the Parish.

²¹ LA RS 33:1243 <https://law.justia.com/codes/louisiana/2019/revised-statutes/title-33/rs-1243/>

Enforcement

As stated previously in the report, additional steps related to enforcement had been applied in practice but not codified. These procedures are somewhat inconsistent with the current regulations provided in the Code.

Staff met with the Parkways Department and the Department of Inspection and Code Enforcement to determine how to handle enforcement moving forward.

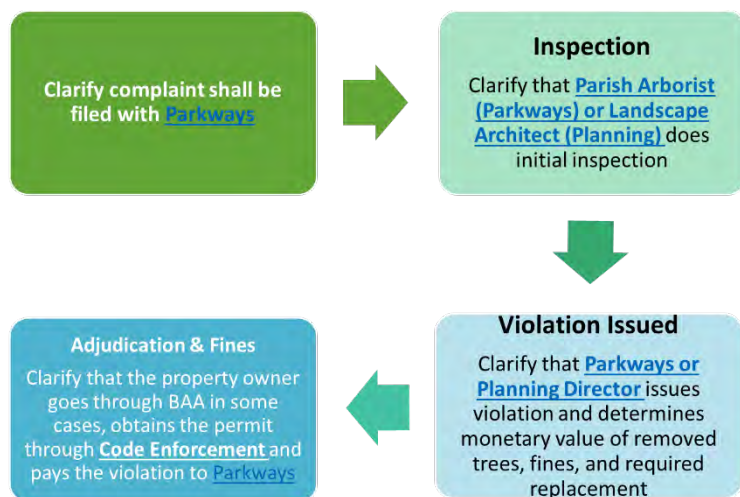


Figure 12. Current Enforcement Procedures with Clarification

The Code states that either the Parish Arborist or Landscape Architect shall conduct the initial inspection, and the Parkways Director or Planning Director issues violation. These responsibilities should be maintained as written in the Code (Figure 12). Although zoning violations on private property are typically handled by Code Enforcement or the Department of Property Maintenance and Zoning (PMZ), the Parish Arborist and Parkways Department have the expertise to evaluate trees for health, value, and necessary replacement, as well as, system for managing funds related to required replacement and violations.

Related Matters

Emergency Tree Removal

When a protected tree has suffered irreparable damage due to a weather phenomenon tree disease, or infestation, and poses imminent danger to public health and safety, the owner of the property may immediately remove said damaged tree without a permit, without penalty or tree replacement. However, if the Parish Arborist determines that a protected tree removed in an emergency was not irreparably damaged, the property owner shall be in violation and subject to penalties.

Under the current regulations, it is difficult to prove unlawful non-emergency removal, especially after a major storm event like the recent Hurricane Ida. Requiring replacement on a 1 tree: 1 tree basis, and adding extra permitting requirements in emergency situations, including requiring some documentation to support removal will help verify necessity, if contested after the fact.

MRTPD Transition

As part of the transition, the current MRTPD procedures should be reformatted to be compatible with Ch. 33. Provisions will be moved to applicable sections and specific application requirements deleted and referenced as part of the Appendix to the Code (Figure 13).

Ch. 33

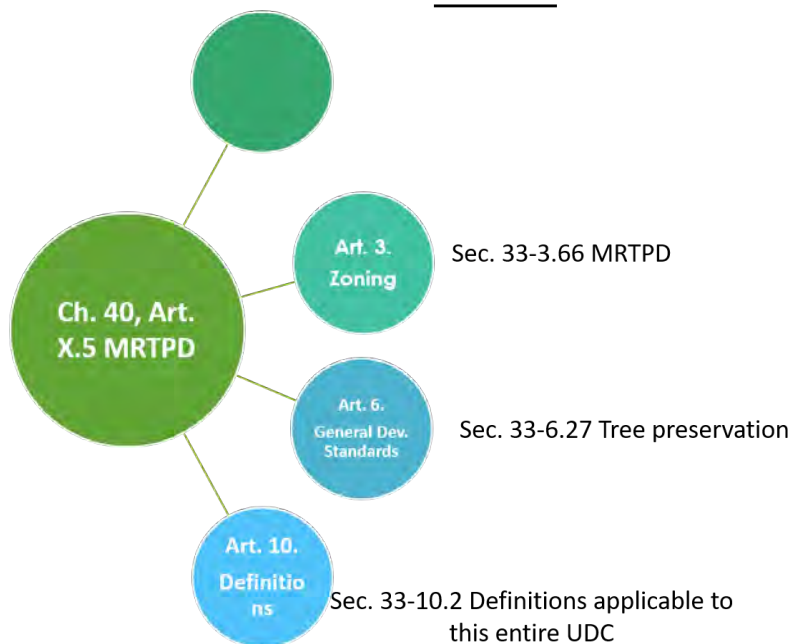


Figure 13. Proposed Restructuring of the MRTPD Regulations

Consistency with the Comprehensive Plan

The Jefferson Parish Comprehensive Plan references the importance of trees in the built environment and environmental stewardship and sustainability, generally. These references are incorporated into multiple sections of the Plan and establish a strong policy basis for Jefferson Parish's current efforts to enhance its capability for meeting these goals, including tree preservation.

- Administration and Implementation
 - Implementation Framework of Funding Sources & Responsible Entities, Task Description f. requirements or incentives for canopy tree preservation and other landscaping, street tree, screening, or buffer purposes.
- Task Entity 37. Fund Urban Forestry and Partner with Organizations for Landscaping and Education
 - Enhance tree canopy and landscaping through ongoing planting, maintenance, and partnering with organizations in support of urban forestry projects and programs, such as the annual Tree School (PW, CR).
- 4. Our Vision. Jefferson Parish is a resilient, diverse, and connected community with a rich quality of life, vibrant neighborhoods and abundant opportunities to

prosper.

Resilient and Sustainable

1. Jefferson has safe, well-maintained, and vibrant residential, mixed-use, and commercial neighborhoods.
- Appendix C: Implementation Progress Since 2003. Infrastructure, Task: Establish a funding source for an ongoing urban forestry streetscape maintenance and enhancement program.” (Appendix C Implementation Progress).

CONCLUSION AND STAFF RECOMMENDATION

The tree preservation standards provided in the Code aim to protect and preserve the existing tree canopy in Jefferson Parish, promote the maintenance and planting of trees and related urban forestry activities, enhance the appeal of the built environment, increase comfort and property values, and generally improve the quality of the environment in Jefferson Parish.

Staff has identified issues with the current tree preservation, replacement, and violations provisions. Tree preservation provisions in the larger lot base zoning (R-1B, R-1C, R-1D) districts are vague and conflict with general tree preservation requirements applied to the MRTPD and OMNCD. Additional fines associated with illegal tree removal tend to be less than the monetary value of significant trees that are removed. Increasing the replacement requirement can act as both a form of discouragement for unlawful removal and a tangible way to increase the tree canopy. In addition to significant trees, prohibited trees should be addressed in the Code. Additional standards are necessary for emergency tree removal and maintenance of replacement trees should be required.

In response to these issues, Staff has developed recommendations that will better serve the intent of the tree preservation regulations, which is to protect and increase tree canopy in the area. Staff recommends enhancing the requirements associated with tree preservation, removal, replacement, violations and enforcement.

The Code has outdated requirements for larger lot base zoning districts (R-1B, R-1C, R-1D) that are conflicting with general tree preservation requirements elsewhere in the Code. Planning recommends removing these tree preservation requirements from the Code. Planning recommends allowing tree removal within the buildable area in OMNCD, with replacement. To be consistent with the approach in the OMNCD, Planning recommends maintaining the uncontested tree removal area in the MRTPD, but also requiring replacement.

Planning recommends increasing required replacement for healthy trees to 1 inch DBH: 1-inch caliper ratio, on site for the first 12 inches DBH, plus \$100 per inch DBH thereafter. This recommendation is consistent with other communities, will help deter illegal tree removal of significant trees, and help preserve and grow the tree canopy especially in residential neighborhoods along Metairie Road. Planning also recommends adding maintenance and additional inspection requirements after one year of planting to help ensure replacement trees are adequately cared for and healthy.

Planning recommends standardizing violations on per diem basis, which is consistent with the general violations section of the Code and supports a layering approach to fines. Requiring double replacement for unlawful tree removal will help deter illegal removal of large and significant trees. Planning also recommends adding more detailed violation procedures in the Code to help simplify the path to compliance for those that are subject to fines. Planning recommends clarifying how fines can be used to include upkeep and repair, in addition to maintenance and planting, which will contribute to the continued beautification along corridors throughout the Parish.

Planning also recommends addressing other related matters with this study, including:

- Consolidating and updating the species list of significant trees and adding a list of prohibited trees will simplify standards as well as encourage the planting and maintenance of native species that are also resilient.
- Requiring property owners to obtain a certification letter from a licensed arborist prior to emergency removal of significant trees, and permit within 30 days of said removal.
- Moving regulations from Article X.5 MRTPD to respective sections in Chapter 33 UDC, referencing MRTPD permits as part of the Appendix, deleting provisions duplicated on the applications.

This recommendation supports the following *Envision Jefferson 2040* goals and objectives:

- Goal 5: Enhanced aesthetics make built environments attractive places to live, work, travel, learn, and play.
 - Objective 1. Preserve and enhance the Parish's tree canopy and other landscaping.

The Planning Department recommends the following text amendments:

- Tree preservation and removal:
 - In the OMNCD: Allow the removal of protected trees within the buildable area, but require replacement (#5 and #9);
 - In the MRTPD: Continue to allow the removal of protected trees within the uncontested tree removal area, but require replacement (#7 and #9); and
 - Remove outdated and vague tree preservation requirements for larger lot base residential zoning districts:
 - (R-1B (#20));
 - (R-1C (#21)); and
 - (R-1D (#22)).
- Tree replacement and fee-in-lieu:
 - In general, increase required replacement for proposed trees to be removed based on size and condition:
 - Trees 12-inch DBH or less= a 1-inch DBH :1-inch caliper ratio.
 - Trees with over 12-inch DBH=1-inch DBH: 1-inch caliper up to twelve (12) inches, plus \$100 per inch DBH thereafter. All monetary proceeds from required replacement or a fee-in-lieu, shall be paid to

- the Department of Parkways and shall be placed in a special account dedicated to the planting, repair, maintenance, or upkeep of trees on public property.
 - Emergency, diseased, or hazardous trees shall be required to replace 1 tree:1 tree ratio (#8 and 15);
 - Clarify that the fee-in-lieu shall match the total market value of the required replacement tree(s) as determined by the Parish Arborist or Landscape Architect (#15).
 - Add maintenance and inspection requirements for replacement trees (#14).
 - Violations and enforcement procedures:
 - Clarify that violations shall be issued on a per diem basis until violations have been resolved with the Department of Inspection and Code Enforcement (#17).
 - Clarify that those in violation of any portion of the tree preservation regulations shall pay the violation fee and then obtain a permit and follow all the requirements therein, including replacement and/or fee-in-lieu (#17).
 - Require double (2x) replacement for unlawful tree removal (#17).
 - Clarify that all monetary proceeds from fines imposed from tree violations, excluding court costs, shall be paid to the Department of Parkways and shall be placed in a special account dedicated to the planting, repair, maintenance, or upkeep of trees on public property (#16).
 - Related matters:
 - Consolidate conflicting significant trees list into a single list, and update species, as appropriate (#9).
 - Add a list of prohibited trees that are not allowed to be planted as replacement trees that can be removed regardless of size, without replacement (#9).
 - Require property owners to obtain a certification letter from a licensed arborist, and tree removal permit emergency removal of significant trees (#8).
 - Capitalize abbreviation of diameter breast height (DBH) in Sec. 33-6.27.8. and add additional requirements for a tree survey (#12).
 - Clarify language related to how funds related to payments in lieu are allocated can be utilized on public property in Sec. 33-3.53.6.3. Landscaping (Fat City) (#4).
 - Move regulations from Article X.5 to respective sections in Chapter 33 UDC:
 - Transfer and clarify application requirements, review procedures, and appeals provisions to the new MRTPD section Sec. 33-3.66. (#6).
 - Transfer standards related to significant trees, uncontested tree removal, responsibility for tree preservation, appeals, and other standards to Sec. 33-6.27. Tree preservation (#9, #10, #11, #16).
 - Delete regulations and reserve Article X.5 (#23).
 - Transfer MRTPD minor subdivision regulations to Sec. 33-2.31. Minor subdivisions (#2).
 - Add a reference to the general subdivision regulations in the OMNCD

development review section, Sec. 33-3.65.7. (#6).

- Transfer the definition of *Parish Arborist* to Sec. 33-10.2. (#18).
- Add MRTPD applications to the Appendix (#1).
- Update section references to the MRTPD:
 - Sec. 33-3.2.2. Overlay zoning districts (#3)
 - Sec. 40-33. Overlay zoning districts. (#19)
 - Sec. 40-665. Clear vision area regulations (#24)
 - Sec. 40-792. Powers of the Board (#25)

AMENDED ORDINANCE TEXT Legend: added text ~~deleted text~~ moved text

Staff recommends the following text amendments:

- 1. Amend Chapter 33 Unified Development Code, Sec. 33-1.10. Appendix, to clarify that the MRTPD applications shall be included in the appendix of the UDC, to read follows:**

Sec. 33-1.10. Appendix.

The Appendix of this UDC shall include, but not be limited to, the application forms with submittal requirements; the application fee schedules; the application and information required for Metairie Ridge Tree Preservation District (MRTPD) permits, the information required on the drawings—plans, elevations, details—for site plan review; the landscape and buffer planting and maintenance specifications, the Subdivision Public Improvements Standards Manual; and street improvements plans. These documents are not set out herein, but are available for download from the Parish’s website address or for inspection by hard copy in the following offices: the Department Inspection and Code Enforcement for the MRTPD application forms, the Planning Department for all other application forms, fee schedules, site plan submittal requirements, landscaping specifications, and street improvements plans; or the Department of Engineering for the Subdivision Public Improvements Standards Manual.

- 2. Amend Chapter 33 Unified Development Code, Sec. 33-2.31.2. Applicability, to incorporate MRTPD subdivision provisions and reorganize existing provisions, to read follows:**

Sec. 33-2.31.2. Applicability.

Any subdivision meeting the criteria established in this section may be submitted to the Planning Director for ministerial review subject to the requirements of this section. Plats shall be prepared in accordance with the requirements listed in the Appendix of this UDC.

- (1) The realignment or shifting of lot boundary lines including removal, addition, alignment, or shifting of interior lot boundary lines, or the designation or re-designation of lot numbers provided the application does not trigger a major subdivision per subsection (3) below, meets all the requirements of the

subdivision and zoning ordinances, and the following criteria for certain subdivision applications: requirements:

- a. Notification to abutting property owners is required for any subdivision application:
 1. Located within the MRTPD or OMNCD; or
 2. Located within or abutting a residential zoning district, where the application results in a change in lot orientation, resulting in either the rear lot line of the new lot adjoining the side lot line of another lot; or the side lot line of the new lot adjoining the rear lot line of another lot.
- b. When required, the applicant shall provide the Planning Department with a notarized list of the names and addresses of the abutting property owners as part of the application for minor subdivision, and the costs of certified mail shall be borne by the applicant.
- c. Notification is not required for any adjacent lot(s) under the same ownership as the subject lot(s).
- d. The application shall be reviewed as a major subdivision if the Planning Director receives a letter of objection that meets the criteria provided in subsection (3) below.
- ~~a. Does not involve the creation of any new street, right-of-way in full ownership, or other public improvement but may provide for the dedication, acceptance, relocation, or deletion of public utility servitudes granted to Jefferson Parish, other than streets.~~
- ~~b. Does not involve more than two (2) acres of land or ten (10) lots of record.~~
- ~~c. Does not result in the creation of a lot that is below the minimum width, depth, and area requirements of this code, except when the new width, depth, or area increases conformance with the minimum width, depth, or area requirements of this code, without creating greater deficiency in any of these requirements.~~
- ~~d. Does not involve the creation of a subdivision with private street(s) as described in Sec. 33-7.5 Transportation of this UDC or the creation of a private or common driveway as described in Sec. 33-6.4 Block and Lot Standards (c) Single-family residential lots of this UDC.~~
- ~~e. Does not result in a lot of record that is designated with two (2) or more zoning districts, excluding overlay districts.~~
- ~~f. Does not result in the rear lot line of the new lot adjoining the side lot line of another lot or the side lot line of the new lot adjoining the rear lot line of another lot, when the property to be subdivided is within or abutting a residential zoning district, unless the following standards shall apply. conditions are met:~~
 - ~~1. The adjacent lot(s) is under the same ownership as the subject lot; or~~
 - ~~2. The Planning Director receives no letter of objection after notifying abutting property owner(s) of the application for minor subdivision. The~~

~~applicant shall provide the Planning Department with a notarized list of the names and addresses of the abutting property owners affected by the change in lot orientation or as part of the application for minor subdivision, and the costs of certified mail shall be borne by the applicant.~~

~~The application shall be reviewed as a major subdivision if the Planning Director receives a no letter of objection after notifying abutting property owner(s) of the application for minor subdivision that meets the criteria provided in subsection (3) below. Any objection, which must comply with the following criteria, shall result in a major subdivision application:~~

- ~~(i) Objection must be made in writing and signed by the abutting property owner(s) objecting to the minor subdivision;~~
- ~~(ii) Objection must be received in the Planning Department office within ten (10) days of the date of postage on the letter notifying the abutting property owner(s) of the application for minor subdivision; and~~
- ~~(iii) Objection to application shall be considered valid only if related to possible negative impact on neighboring properties if the minor subdivision is approved. A letter to the Planning Director objecting to the minor subdivision must detail the abutting property owner's concerns regarding the specific impacts that the proposed minor subdivision may have on the abutting property.~~

~~g. Does not result in the creation of a through lot if the abutting lots are lots with single frontage when the property to be subdivided is within or abutting a residential zoning district.~~

~~h. Otherwise meets all the requirements of the subdivision and zoning ordinances, including *Section 40-182 Application requirements and review procedures for Planning Department of Article X.5 Metairie Ridge Tree Preservation District (MRTPD)*.~~

(2) Parcels of land where a portion has been expropriated or has been dedicated, sold, or otherwise transferred to the Parish, thereby leaving a severed portion of the original property that requires a re-designation of lot numbers and establishment of new lot boundary lines.

(3) If any of the following conditions are met, then the application shall be reviewed as a Major Subdivision:

a. Involves the creation of any new street, right-of-way in full ownership, or other public improvement but may provide for the dedication, acceptance, relocation, or deletion of public utility servitudes granted to Jefferson Parish, other than streets.

b. Involves more than two (2) acres of land or ten (10) lots of record.

c. Results in the creation of a lot that is below the minimum width, depth, and area requirements of this code, except when the new width, depth, or area increases conformance with the minimum width, depth, or area requirements of this code, without creating greater deficiency in any of these requirements. **Subdivision proposals that meet the criteria of**

the above referenced exception may be submitted to the Planning Director for ministerial review.

- d. Involves the creation of a subdivision with private street(s) as described in Sec. 33-7.5 Transportation of this UDC or the creation of a private or common driveway as described in Sec. 33-6.4 Block and Lot Standards (c) Single-family residential lots of this UDC.
- e. Results in a lot of record that is designated with two (2) or more zoning districts, excluding overlay districts.
- f. Results in the creation of a through lot if the abutting lots are lots with single frontage when the property to be subdivided is within or abutting a residential zoning district.
- g. If valid objection is received from an abutting property owner(s) for an application that is located in the MRTPD or OMNCD or includes a change in lot orientation as specified in (1) above, provided the following criteria are met:
 - 1. Objection must be made in writing by the abutting property owner(s) objecting to the minor subdivision;
 - 2. Objection must be received in the Planning Department office within ten (10) days of the date of postage on the letter notifying the abutting property owner(s) of the application for minor subdivision; and
 - 3. Objection to application shall be considered valid only if related to possible negative impact on neighboring properties if the minor subdivision is approved. A letter to the Planning Director objecting to the minor subdivision must detail the abutting property owner's concerns regarding the specific impacts that the proposed minor subdivision may have on the abutting property. For applications located in the OMNCD or MRTPD, impacts shall include loss of tree canopy; loss of tree(s) abutting property; or other potential demonstratable damage to abutting property.
- ~~h.~~ h. The Planning Director determines that the proposed subdivision creates the need for off-site public infrastructure improvements that have not been funded by the Parish or on the Parish capital improvements program; and
- ~~h.~~ i. The Planning Director determines that the proposed subdivision differs substantially from the neighborhood norm (as defined in this UDC).

3. Amend Chapter 33 UDC, Sec. 33-3.3.2. Overlay zoning districts, to update the section reference for the MRTPD overlay zoning district, to read as follows:

Sec. 33-3.3.2. Overlay zoning districts

The following overlay zoning districts are established for unincorporated Jefferson Parish. These districts impose additional requirements on certain properties within one or more underlying base zoning districts.

* * *

- (4) MRTPD Metairie Ridge Tree Preservation District is an overlay zoning district with boundaries defined in Article X.5 [Sec. 33-3.66](#) Metairie Ridge Tree Preservation District of this chapter [Code](#).

* * *

4. Amend Chapter 33 UDC, Sec. 33-3.53.6.3. Landscaping (Fat City), clarify language related to how funds related to payments in lieu are allocated can be utilized on public property, to read as follows:

Sec. 33-3.53.6.3. Landscaping.

* * *

- (e) If a ministerial exception for required Streetscape trees is requested and is not approved, the property owner may provide the monetary value of the required Streetscape tree(s), as determined by the Parish Arborist. Payments in lieu of required Streetscape trees shall be paid to the Parish Department of Parkways and shall be placed in a [special parish fund](#) an [or](#) account, [and](#) dedicated [to the](#) planting, [repair](#), or maintenance, [or upkeep](#) of trees on public property within the Fat City zoning districts.

* * *

5. Amend Chapter 33 Unified Development Code, Sec. 33-3.65.5.3. Greenspace (OMNCD), to clarify that Sec. 33-6.27 applies and transfer procedures related provisions to Sec. 33-65.7 Development review, to read follows:

Sec. 33-3.65.5.3. Greenspace.

- (a) Purpose.

* * *

- (b) ~~All development shall comply with the tree preservation regulations of Article X.5 Metairie Ridge Tree Preservation District (MRTPD) [Sec. 33-6.27 Tree preservation](#) of this [UDC shall apply](#), except for the following:~~

- ~~(1) Tree preservation or tree removal as part of development activity under the purview of the OMC or the Planning Director:~~

- ~~a. Tree preservation or tree removal associated with applications subject to OMC review for construction or new development, alteration, or addition within the district shall be submitted with an OMNCD application to the Planning Department, which shall be the repository for these application materials, rather than the Department of Inspection and Code Enforcement;~~

- ~~b. The review and approval process for tree preservation or tree removal shall follow standard OMNCD procedures, except that tree removal only in the OMNCD shall follow the procedures outlined in Sec. 40-181;~~

- ~~(2) Payments in lieu of on-site tree replacement shall be paid to the Department of Parkway and shall be placed in a special account dedicated to the planting, or~~

~~maintenance, of trees on public property. within the OMNCD, with second priority given to the MRTPD, and third priority given to Council District Five (5). Payments shall be paid prior to the OMC forwarding its recommendation to the Jefferson Parish Council.~~

* * *

6. Amend Chapter 33 Unified Development Code, Sec. 33-3.65.7. Development review, to add a section reference to OMNCD subdivision procedures and add a new subsection for tree preservation and removal procedures, to read follows:

Sec. 33-3.65.7. Development review.

* * *

Sec. 33-3.65.7.4. Subdivision procedures.

(a) Development sites with multiple lots shall subdivide into one (1) lot or lots of record that meet the underlying zoning district lot area standards prior to the issuance of any permit by the Parish, including, but not limited to, building and demolition permits.

(b) Chapter 33, Article 2, Division 3. Subdivision shall apply to minor and major subdivisions.

Sec. 33-3.65.7.5. Tree preservation and removal procedures.

(a) All development shall comply with the development approval provisions provided in Sec. 33-3.66.7 of this UDC, except for tree preservation or tree removal included as part of a development activity under the purview of the OMC or the Planning Director:

(1) Tree preservation or tree removal associated with applications subject to OMC review for construction or new development, alteration, or addition within the district shall be submitted with an OMNCD application to the Planning Department, which shall be the repository for these application materials, rather than the Department of Inspection and Code Enforcement;

(2) The review and approval process for tree preservation or tree removal shall follow standard OMNCD procedures, except that tree removal only in the OMNCD shall follow the procedures outlined in Sec. **33-3.66.7.**

Sec. 33-3.65.7.56**. Exceptions and variances.**

* * *

7. Amend Chapter 33 Unified Development Code, Sec. 33-3.66. Metairie Ridge Tree Preservation District (MRTPD), to transfer certain regulations from Article X.5 in Chapter 40, to read as follows:

Sec. 33-3.66. Metairie Ridge Tree Preservation District (MRTPD).

~~See Chapter 40, Article X.5 of this Code.~~

Sec. 33-3.66.1. Purpose.

The intent and purpose of the Metairie Ridge Tree Preservation District is to create and apply an overlay zone intended to protect the existing tree canopy in the preservation district and facilitate the maintenance and planting of trees in Jefferson Parish. The Metairie Ridge Tree Preservation District shall also facilitate related urban forestry activities in this district, maintain and add aesthetic appeal, increase comfort and property values in this district, and generally improve the quality of the environment in the Metairie Ridge Tree Preservation District.

Sec. 33-3.66.2. Generally.

- (a) Development and structures within the district must conform to the regulations of both the underlying zoning district and the MRTPD, or to the more restrictive requirement of the two (2) districts regarding tree preservation or replacement.**
- (b) Where this district is silent on a standard, the standard of the underlying district or other applicable section of the Code shall apply.**
- (c) Nothing in this section shall prevent any ordinary maintenance or repairs, construction, reconstruction, alteration, or demolition necessary to remedy an unsafe or dangerous condition or threat to public safety.**
- (d) The MRTPD shall be defined by the following boundaries:**
 - (1) Beginning at Bonabel Boulevard, to its intersections with Interstate 10 south to Metairie Road;**
 - (2) Metairie Road south to North Labarre Road to the Norfolk Southern Railroad Tracks; the Norfolk Southern Railroad Tracks east back to Metairie Road;**
 - (3) Metairie Road to the 17th Street Canal; north along the 17th Street Canal to Interstate 10; and**
 - (4) West back towards Bonabel Boulevard and reflected as an overlay zone in the electronic records which constitute the Official Zoning Map of Jefferson Parish.**

Sec. 33-3.66.3. Authorized uses.

See underlying zoning district. Authorized accessory buildings, structures, and uses shall comply with Division 1. Specific Use Standards of Article 5. Supplemental Conditions of this UDC.

Sec. 33-3.66.4. Dimensional standards.

The standards of the underlying zoning district shall apply.

Sec. 33-3.66.5. Development standards.

Sec. 33-3.66.5.1. Tree preservation.

Sec. 33-6.27. Tree preservation of this UDC shall apply.

Sec. 33-3.66.5.2. Parking, loading, and clear vision area.

The standards of the underlying zoning district shall apply.

Sec. 33-3.66.5.3. Signs.

The standards of the underlying zoning district shall apply.

Sec. 33-3.66.6. Adequate public facilities.

The standards of the underlying zoning district shall apply.

Sec. 33-3.66.7. Development approval.

Sec. 33-3.66.7.1. Applicability.

Procedures for processing tree removal applications and building permits vary by type of construction activity. For the purposes of this section:

- (a) Certification shall mean a written statement signed by the licensed professional making the statement and, as applicable, attesting to the accuracy of information ascertained by the licensed professional or provided by another person.
- (b) Construction activities shall mean any type of activity that could have a detrimental effect on any trees existing on the site or abutting the site, including but not limited to, construction of accessory buildings, addition to any structure, any fence permit, removal of a tree, clearing or filling of lot, demolition of any structure, new structure, paving of a driveway or any portion of a lot, swimming pools or spas, or trenching for utilities. Routine maintenance of trees shall not be considered a construction activity. Construction activities are further broken into two types of activity:
- (1) Minor construction activity shall include fences; trenching for utilities; alterations to existing swimming pools or spas; driveway paving; additions, alterations, demolition, and renovation less than twenty-five percent (25%) of the total square footage of the main structure; and interior renovations. Any activity that otherwise may be considered minor construction activity as defined in this article, but that necessitates the removal of a protected tree or negatively impacts the Root Protection Zone of a protected tree outside the uncontested removal area, shall be considered major construction activity for the purposes of this article.
- (2) Major construction activity shall include clearing or filling a lot; tree removal; new or additions to existing swimming pools or spas; paving other than driveways; total demolition or new construction; new accessory structures; additions, alterations, demolition, and renovation over twenty-five percent (25%) of the total structures.

Sec. 33-3.66.7.2. Code Enforcement permit requirements and review procedures.

(a) Application requirements.

(1) General.

- a. The three (3) types of Metairie Ridge Tree Preservation District (MRTPD) applications are tree removal only, minor construction activities, and major construction activities, as defined in this section with specific requirements for each provided in the Appendix. Applications vary by type.
- b. The MRTPD application, with the required information as listed in the Appendix of this UDC, shall be filed with the Department of Inspection and Code Enforcement Director.
- c. The MRTPD application shall be submitted, notwithstanding, and in addition to, any other permitting requirements stated in Chapter 8 or any other chapter of the Jefferson Parish Code of Ordinances, prior to any construction activity or tree removal in the MRTPD.

d. Tree protection plan.

1. A tree protection plan is not required for minor construction activities.
2. Tree removal only, while defined as major construction activity, does not require a tree protection plan; however, the Parish Arborist may require the submittal of a tree protection plan if, after the property owner applies for tree removal, it is determined that the tree removal may be detrimental to other protected trees and tree protection is necessary.

3. For major construction activities, the applicant or property owner are required to submit a tree protection plan in accordance with Sec. 33-6.27.9. Tree protection plan.
 4. Violation of the tree protection plan and additional preservation and replacement requirements shall be a violation of this UDC subject to the penalties outlined in Sec. 33-6.27. Tree preservation.
- (2) Exceptions. Exceptions to the application and fee requirements are as follows:
- (a) When a property owner has no trees on his property or within ten (10) feet of the subject property line on abutting property, the property owner may submit an affidavit to that effect with his building permit. This affidavit releases the property owner from the requirements of this section.
 - (b) When a property owner has no protected trees as defined in this article on his property or within ten (10) feet of the subject property line on abutting property, the property owner may submit an affidavit with his building permit signed by the property owner and certified by a landscape architect, a landscape contractor or an arborist licensed as such by the State of Louisiana stating that no existing trees meet the "protected tree" qualification. This affidavit releases the property owner from the requirements of this section.
- (b) Review procedures.
- (1) Parish Arborist review.
 - a. There will be no review of the application or site by the Parish Arborist for minor construction activities.
 - b. The Parish Arborist shall review applications for tree removal and the tree protection plan component for major construction activity applications.
 - (2) Minor construction activity permits. A complete MRTPD application shall be attached to the applicant's building permit.
 - (3) Tree removal only permits and major construction activity permits:
 - a. A complete MRTPD application shall be submitted to the Department of Inspection and Code Enforcement. For major construction activities, the MRTPD application shall be submitted as a separate permit, in addition to the building permit.
 - b. The Parish Arborist shall provide a recommendation in writing, after inspecting the site, to the Department of Inspection and Code Enforcement within ten (10) business days of receipt of application.
 - c. The property owner or his agent may, in writing to the Department of Inspection and Code Enforcement, request a specific number of additional business days for the review in order to resolve any outstanding issues regarding his application including the submission of a tree protection plan if one was not submitted with the application.
 - d. Upon receipt of the recommendation of the Parish Arborist, the Director of Inspection and Code Enforcement shall make a decision regarding the issuance of the requested permit.
- (c) Additional requirements. When necessary to protect the tree canopy in the MRTPD, the Director of Inspection and Code Enforcement is authorized to add, as requirements for the issuance of a building permit on private property in the

MRTPD, the recommendations of the Parish Arborist regarding tree preservation, tree removal and replacement of trees on private property and public property abutting the permit site. A building permit is required for all construction activity, as defined in the MRTPD, notwithstanding the provisions of the Building Code of Jefferson Parish.

- (d) **Approval.** For permits, if approval is granted a copy of the tree protection plan and application with a statement of additional tree preservation or replacement requirements for the permit, if any, will be attached to any permit issued by the Department of Inspection and Code Enforcement.

Sec. 33-3.66.7.3. Planning Department subdivision and SPU requirements and procedures.

All subdivision and special permitted use applications shall be reviewed and processed according to the standard procedures of the Planning Department as established in Chapters 33 and 40:

- (a) **Chapter 33, Article 2, Division 3 Subdivision shall apply to major and minor subdivisions.**

- (b) **In addition to the requirements for special permitted uses provided in Article XL, the following standards shall apply:**

1. If the Special Permitted Use application requires a site plan, the additional requirements specified for the survey regarding location of trees may be shown on this site plan.
2. The submitted site plan shall meet the requirements for site plans for major construction activity and include the tree protection plan requirements.
3. The site plan and tree protection plan submittals for special permitted uses in the MRTPD district, once approved by the Parish Council, may fulfill the required site plan and tree protection plan of major construction activity permit applications unless substantial changes occur at the construction activity permit stage altering the tree protection plan significantly, in which case an amended site plan shall be required.

Sec. 33-3.66.7.4. Appeals.

Decisions of the Director of Inspection and Code Enforcement, including those based on the recommendations of the Parish Arborist, may be appealed to the Board of Zoning Adjustments within thirty (30) days following the decision of the Director in accordance with the procedures established by Chapter 40, Article XLII. Board of Zoning Adjustments.

- 8. Amend Chapter 33 Unified Development Code, Sec. 33-6.27.3. Generally, to add additional standards for trees that require emergency removal, to read as follows:**

Sec. 33-6.27.3. Generally.

* * *

- (4) *Emergency removal.***

- a.** When a protected tree has suffered irreparable damage due to a weather phenomenon such as a hurricane, tornado, or severe rainstorm or due to an emergency created by situations including, but not limited to, fire, tree

disease, or insect infestation, and poses imminent danger to public health and safety, the owner of the property may immediately remove said damaged tree without penalty or tree replacement, provided the property owner submits a tree removal permit within thirty (30) days of the emergency removal and the damaged tree is replaced on a one tree to one tree ratio (1:1) in accordance with Sec. 33-6.27.10.

b. Protected trees removed in an emergency are subject to the following requirements:

1. A landscape architect, landscape contractor, or an arborist licensed as such by the State of Louisiana shall certify in an affidavit that there are emergency reasons for the removal of such tree(s) from the site including a brief statement of those reasons for the removal.

2. Supporting documentation, including photos, shall be submitted as to why the tree was or should be removed as part of tree removal permit application. This documentation may include, but is not limited to, reports by a Louisiana state licensed structural engineer regarding existing or certain future damage caused by the tree to a structure, or other Louisiana state licensed professional documenting why the tree should be removed. Any documentation provided by a Louisiana state licensed professional shall include his or her official seal or license number, as applicable.

3. The Parish may request the certification and supporting documentation as verification that a protected tree proposed to be removed or removed in an emergency was irreparably damaged.

c. If the property owner fails to apply for a tree removal permit within thirty (30) days of the emergency removal, or if the Parish Arborist determines that a protected tree removed in an emergency was not irreparably damaged, the property owner shall be in violation of this section and subject to penalties.

d. Complaints regarding alleged violations of this section shall not be accepted more than sixty (60) days after the date the emergency removal occurred.

* * *

9. Amend Chapter 33 Unified Development Code, Sec. 33-6.27.4. Protected trees and preservation areas, to update the significant trees list, increase requirements for tree replacement, add a reduced requirement for replacement of trees in the buildable area, and to clarify that hazardous and diseased trees may be replaced on a tree for a tree basis, to read as follows:

Sec. 33-6.27.4. Protected ~~and prohibited~~ trees ~~and preservation areas~~.

(a) Protected trees shall include all significant trees and other canopy trees where at least fifty (50) percent of the base of the tree is located in a preservation area, and all replacement trees, as further described below:

(1) Significant trees shall include the following species that have a DBH of eight (8) inches or greater:

- a. ~~Oak: Live 1.~~ All Oaks, except Water Oaks.
- b. ~~Elm: American~~ All Elms.
- c. ~~Cypress: Bald, except those located within fifteen (15) feet of a parking space or building foundation~~ All Bald Cypress, except those located within fifteen (15) feet of a building foundation.
- d. ~~Magnolia: Southern, Sweetbay~~ All Magnolias.
- e. Sycamore.
- f. Pecan.
- g. Any tree that contributes to the canopy and has a DBH of at least twenty-four (24) inches, except prohibited trees listed in subsection (b) below.
- h. Replacement trees required in Sec. 33-6.27.10.

* * *

(3) *Replacement trees* shall include a tree(s) planted as a replacement tree(s) for a protected tree, in accordance with Sec. 33-6.27.8-10. Replacement trees shall be any tree listed on the protected tree list. For the purposes of this section, a replacement tree shall be considered a protected tree after installation regardless of DBH.

* * *

(b) Prohibited Trees.

(1) Prohibited trees shall include any tree that is listed as a prohibited tree on the List of Approved Plant Materials (List) included in the Appendix of the Code.

(2) Prohibited trees do not require protection or replacement, and shall not be planted to fulfill the tree replacement requirements of this section.

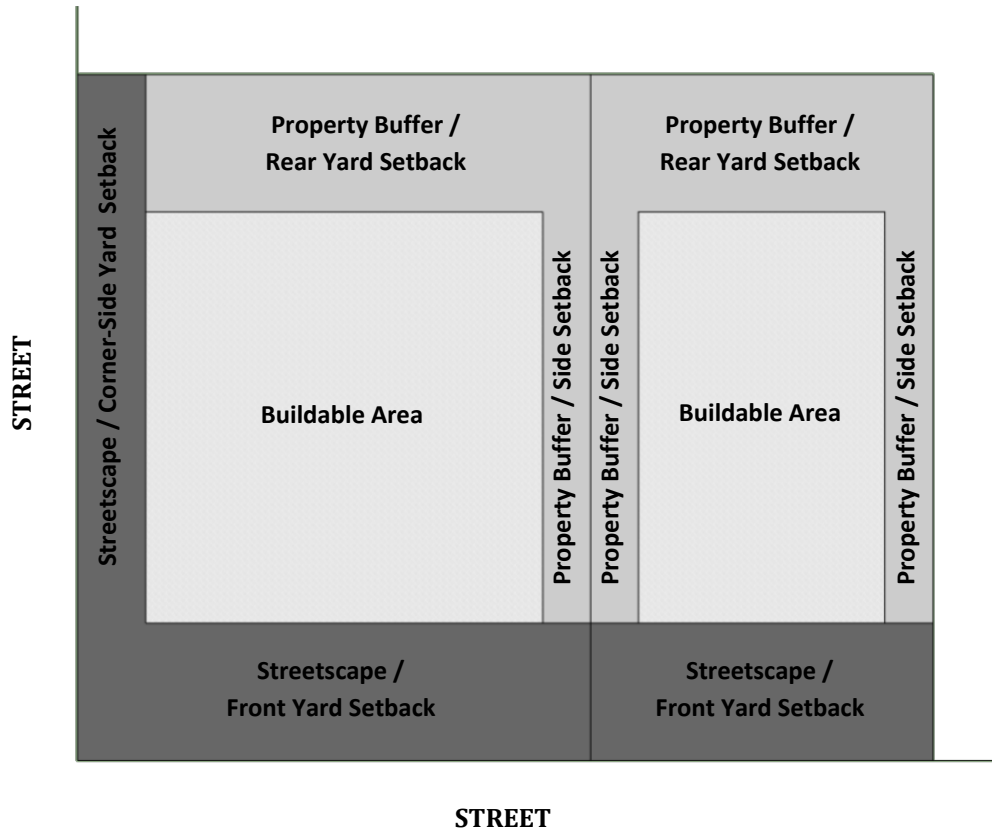
Sec. 33-3.67.5. Preservation and uncontested removal areas.

(a) *Preservation areas.* Preservation shall include certain areas of a lot or development site where tree preservation and protection are required, as specified in this UDC.

~~or in Chapter 40 Zoning of this Code. In accordance with district regulations,~~

Preservation areas are defined in relation to streetscape area, property buffer, setback, and buildable area (Figure 33-6.27.25-1).

Figure 33-6.27.25-1: Preservation Areas.



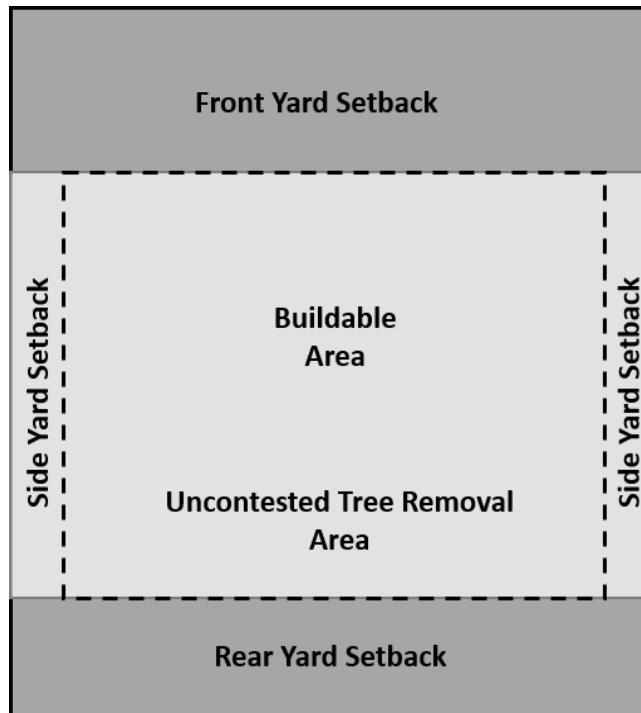
(b) *Uncontested removal areas.* Uncontested tree removal shall be allowed in certain zoning districts in according to the following standards:

(1) MRTPD.

- a. Uncontested tree removal shall be allowed for all trees which have at least fifty (50%) percent of the base of the tree within the boundaries of the buildable area on the site as defined by the front and rear yard setback requirements of the zoning district in which the property is located.
- b. Uncontested tree removal shall also be allowed within the required side yard setbacks of the zoning district in which the property is located.

- c. The property owner shall be allowed to remove any tree(s) within the uncontested removal area after submittal of a MRTPD application and approval of such removal as part of a construction activity or tree removal permit **provided that each protected tree that is to be removed within the uncontested tree removal area shall be replaced in accordance with Sec. 33-6.27.10., either on-site or with a payment of a fee-in-lieu (Figure 33-6.27.5-2).**

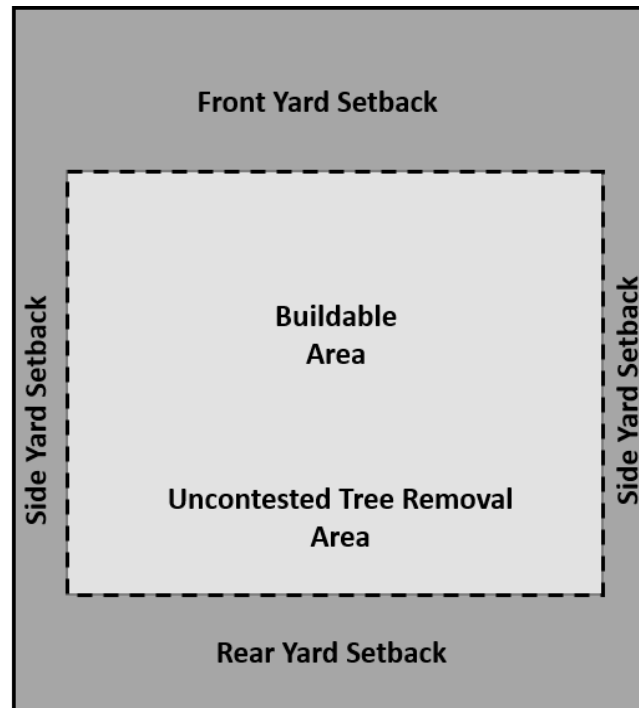
Figure 33-6.27.5-2: MRTPD Uncontested Tree Removal Area.



(2) OMNCD.

- a. Uncontested tree removal shall be allowed for all trees which have at least fifty (50%) percent of the base of the tree within the boundaries of the buildable area on the site as defined by the front and rear yard setback requirements of the zoning district in which the property is located.
- b. **Uncontested tree removal shall not be allowed within any of the required yards of the zoning district in which the property is located.**
- c. The property owner shall be allowed to remove any tree(s) within the uncontested removal area after submittal of a MRTPD application and approval of such removal as part of a construction activity or tree removal permit **provided that each protected tree that is to be removed within the uncontested tree removal area shall be replaced in accordance with Sec. 33-6.27.10., either on-site or with a payment of a fee-in-lieu (Figure 33-6.27.5-3).**

Figure 33-6.27.5-3:OMNCD Uncontested Tree Removal Area.



10. Amend Chapter 33 Unified Development Code, Sec. 33-6.27.5. Responsibility for tree preservation, to update section number and incorporate applicable MRTPD requirements, to read as follows:

Sec. 33-6.27.5.6. Responsibility for tree preservation.

* * *

(c) *Non-construction-related damage.* If any non-construction-related activity is determined to be the cause of later damage to, or death of, a protected tree, the property owner shall replace the protected tree in accordance with the replacement policy of this section and may be subject to the penalties for violation of this section.

(d) *Trees on abutting **private** property.*

(1) **Authorization.** A property owner on whose property construction activity may in any way affect a tree located on property owned by another has the responsibility to get authorization from the owner of such other property and to otherwise comply with all state laws regarding the cutting or trimming of tree limbs and roots, including, but not limited to, La. Civil Code Articles 687 and 688 and La. R.S. 3:4278, before undertaking any action related to any such tree, including, but not limited to, limb or root trimming.

a. This authorization shall be in writing and attached to the permit application.

b. The issuance by the Parish to a property owner of a permit with conditions regarding trees on the property of a person other than the

permittee does not relieve the permittee of this responsibility.

(2) In accordance with state law regarding the cutting or trimming of tree limbs or roots that extend from an adjacent property, a property owner who has authorization in writing from the owner of the abutting property regarding cutting or trimming of a protected tree shall comply with the requirements of this section as if the protected tree existed on his or her property.

(e) Trees on abutting public property. For trees on abutting public property, the issuance of a permit with the approved tree protection plan is considered authorization by the Parish in regards to the aforementioned state laws. Chapter 37, Vegetation, of the Code of Ordinances regulates trees on public property, however, should there be any conflict between those regulations and the regulations within this article, the more restrictive shall apply.

11. Amend Chapter 33 Unified Development Code, Sec. 33-6.27.6. Standards for the preservation of protected trees, to update section number and require that significant trees removed within the buildable area follow standard replacement requirements as outlined in Sec. 33-6.27.10. Tree replacement, to read as follows:

Sec. 33-6.27.6.7. Standards for the preservation of protected trees.

* * *

(c) *Preservation through site design standards.*

- (1)** There shall be no soil fill greater than two (2) inches, other than wood chips or mulch, within the RPZ.
- (2)** Paving within the RPZ shall be permeable. In situations where the paving within the RPZ continuously extends outside the RPZ, the portions outside the RPZ may be constructed of the same permeable material used within the RPZ. Pouring concrete to replace an existing sidewalk or entrance walk within the RPZ is allowed only when a material such as a plastic vapor barrier is laid down first permeable material is used.

(d) *Cutting or clearing protected trees.* The Parish Landscape Architect or Parish Arborist may allow, through the applicable development approval procedures, the cutting or clearing of a protected tree under the following circumstances:

- (1)** The protected tree is diseased or hazardous, as certified by a licensed arborist.
- (2)** ~~Where the buildable area is a preservation area, the protected tree is located in the buildable area and would substantially hinder the development of the site.~~
- (3)** ~~Only the Parish Council may approve the cutting or removal of a heritage, historic, or landmark tree.~~

(2) Trees removed within the uncontested tree removal area, shall follow the replacement requirements outlined in Sec. 33-6.27.10. Tree replacement.

12. Amend Chapter 33 Unified Development Code, Sec. 33-6.27.7. Tree survey, to renumber section and capitalize the abbreviation for Diameter at Breast Height (DBH) to read as follows:

Sec. 33-6.27.7.8. Tree survey.

Where a tree survey is required, the survey shall include all trees of eight (8) inches ~~dbh~~ **DBH** or greater and all trees in the public right-of-way adjacent to the property. Stands of trees may be indicated by species groups with the average ~~dbh~~ **DBH**. The tree survey shall be prepared by a licensed landscape architect, surveyor, engineer, or arborist retained by the applicant. The property owner or his agent shall also indicate on the required survey, plus additional requirements specified in the Appendix:

- (a) The location of base of tree, name, size, and drip line of all trees at least eight (8) inches DBH; and
- (b) All trees within ten (10) feet of the subject property line on abutting public property.
- (c) The following statement stamped on the survey:
"All trees on the site shall be protected at this time and no construction activity shall occur on site without compliance with **Sec. 33-3.66** and **Sec. 33-6.27** of the Jefferson Parish Code of Ordinances."

13. Amend Chapter 33 Unified Development Code, Sec. 33-6.27.8. Tree protection plan, to renumber section, to read as follows:

Sec. 33-6.27.8.9. Tree protection plan.

* * *

14. Amend Chapter 33 Unified Development Code, Sec. 33-6.27.9. Tree replacement, to renumber section, incorporate applicable MRTPD requirements, add replacement ratios based on DBH, add maintenance requirements, and clarify how funds are allocated for replacement, to read as follows:

Sec. 33-6.27.9.10. Tree replacement.

Where replacement of a protected tree is required, the following shall apply:

- (1) **Minimum caliper.** Each protected tree that is to be replaced shall be replaced on-site with a tree ~~the same or similar species with a minimum~~ **caliper** trunk size of two and one half (2 ½) inches **caliper**.

(2) Replacement ratios.

- a. **Significant trees that have a diameter breast height (DBH) of twelve (12) inches or less shall be replaced with a tree from the protected tree list on a one-inch DBH to one-inch caliper (1 inch DBH:1 inch caliper) ratio.**
- b. **Significant trees that have a DBH over twelve (12) inches shall be replaced with a tree from the protected tree list:**
 - 1. On a one-inch DBH to one-inch caliper (1-inch DBH:1-inch caliper) ratio for the first twelve (12) inches DBH; and**
 - 2. The property owner will be responsible for paying one hundred**

dollars (\$100) per each additional inch DBH thereafter. The money shall be paid to the Department of Parkways, placed in a special parish fund or account, and dedicated to the planting, repair, maintenance or upkeep of trees on Jefferson Parish public property.

c. Hazardous or diseased trees.

1. Trees that are permitted for emergency removal in Sec. 33-6.27.3. or other trees Trees determined by a licensed arborist to be hazardous or diseased may be replaced on a one tree to one tree (1:1) ratio, only if that determination is corroborated by the parish arborist.

2. A hazardous or diseased tree shall be replaced with a significant tree listed in Sec. 33-6.27.4.

3. In all cases, the Parish Arborist's determination of the health of a tree shall prevail.

(3) Nursery standards. A replacement tree shall also be:

- a. A nursery-grown certified tree;
- b. Marked with a durable label indicating genus, species, and variety; and
- c. Satisfying the standards established for nursery stock and installation thereof, set forth by the American Association of Nurseryman.
- d. Not listed as a prohibited tree in Sec. 33-6.27.4.

~~(2)~~ (4) Replacement of protected trees shall be in accordance with the following timelines:

* * *

~~(35)~~ Other landscaping requirements. Replacement trees shall be in addition to all other landscaping requirements for the site, unless the parish has approved credit toward minimum requirements for the replacement trees.

(6) Maintenance and Inspection.

a. The owner, tenant, or their agent, if any, shall be jointly and severally responsible for the maintenance, repair, and replacement of all required protected trees over the entire life of the development.

b. The Parish Arborist, or Landscape Architect shall conduct a site visit within approximately one (1) year following the date of planting to ensure that replacement trees remain planted and are healthy.

c. Failure to provide replacement trees in accordance with this section are subject to violations.

~~(4)~~ (7) Fee-in-lieu. In lieu of replacement trees on the project site, the property owner may provide the monetary value of the required replacement tree(s) based on the monetary value needed to fulfill the replacement requirements outlined in this section, as determined by the Parish Landscape Architect or Parish Arborist. This value shall be established based upon the current market value for local nursery stock. The money shall be paid to the Department of Parkways, placed in a special parish fund or account, and dedicated to the planting, repair, or maintenance or upkeep of trees on Jefferson Parish public property.

* * *

15. Amend Chapter 33 Unified Development Code, Sec. 33-6.27.10. Procedures in Certain Districts, to renumber section and add appropriate references to tree preservation and tree removal procedures in the MRTPD and OMNCD, to read as follows:

Sec. 33-6.27.10~~11~~. Procedures in Certain Districts. (Reserved)

(a) Old Metairie Neighborhood Conservation District (OMNCD).

Sec. 33-3.65.7. Development review shall apply.

(b) Metairie Ridge Tree Preservation District (MRTPD).

Sec. 33-3.66.7. Development approval shall apply.

16. Amend Chapter 33 Unified Development Code, Sec. 33-6.27.11. Appeals, to add Appeals regulations from the MRPTD section, to read as follows:

Sec. 33-6.27.11~~12~~. Appeals. (Reserved)

Decisions of the Director of Inspection and Code Enforcement related to the requirements of this section, including those based on the recommendations of the Parish Arborist, may be appealed to the Board of Zoning Adjustments within thirty (30) days following the decision of the Director in accordance with the procedures established by Chapter 40, Article XLII. Board of Zoning Adjustments.

17. Amend Chapter 33 Unified Development Code, Sec. 33-6.27.12. Violations of this section. , to renumber section, indicate that violations may accrue for each day they are not resolved with the Parish, to clarify procedures related to after the fact permitting and processing monetary proceeds from fines, and require double replacement for unlawful tree removal, to read as follows:

Sec. 33-6.27.12 13. Violations of this section.

* * *

(b) *Enforcement.* Upon report of a violation of any of the provisions of this section, and Parish Arborist or Parish Landscape Architect shall immediately investigate the alleged violation. Upon confirmation of sufficient evidence that the violation occurred, the Parkways Director or Planning Director, as applicable, shall notify the property owner in writing, indicating the nature of the violation and ordering the discontinuance of the illegal activity and any action necessary to correct it, including action pursuant to *Chapter 2.5 Administrative adjudication of public health, housing, fire code, environmental and historic district violations* of this Code.

(c) *Penalties.*

(1) All monetary proceeds from fines imposed under this section, including fee-in lieu-payments associated with a violation of this section, but excluding court costs, shall be dedicated paid to the Department of Parkways, placed

in a special fund or account, and dedicated ~~for~~ to the planting, repair, or maintenance, or upkeep, of trees on public property.

(2) The violation of any provision of this section, including those listed below, shall be punishable by a maximum monetary fine of five hundred dollars (\$500.00) per violation per day:

- ~~(1)~~ **a.** Any property owner who violates the provisions of this section by causing significant damage or death to protected trees because of non-construction related activities on site; ~~shall be subject to a maximum monetary fine of five hundred dollars (\$500.00) per tree.~~
- ~~(2)~~ **b.** Any property owner who violates the provisions of this section by removing a protected tree unlawfully or without compliance with the requirements of this section; ~~shall be subject to a maximum monetary fine of five hundred dollars (\$500.00) per tree removed unlawfully.~~
- ~~(3)~~ **c.** Any property owner who violates the provisions of this section by failing to provide a tree protection plan when required under this section or who violates the tree protection requirement(s) of an issued permit; ~~shall be subject to a maximum monetary fine of five hundred dollars (\$500.00) per day, per violated requirement, that the property owner remains in violation of each requirement.~~
- ~~(4)~~ **d.** Submission of false information required by this section ~~by this section shall be a violation considered separate from, and in addition to, the violation of any other provisions in this section. Anyone, including, but not limited to, property owners or state licensed professionals, who knowingly submits false information required by this section shall be subject to a maximum monetary fine of five hundred dollars (\$500.00) in addition to any other fines or penalties for violations of this section.~~
- ~~(5)~~ **e.** State licensed professionals authorized to provide information or perform work by this section who also have parish licenses shall be subject to revocation of their parish license upon determination of their violation of the requirements of this section, including but not limited to submission of false information and performance of work at the request of a property owner who has not received the proper permits for the work.

(3) Any property owner who violates any provision of this section must retroactively obtain a permit and provide the required replacement tree(s) or pay the fee-in-lieu if required, as stipulated in Sec. 33-6.27.10.

(4) In addition to fines, any property owner who violates the provisions of this section by removing a protected tree unlawfully or without compliance with the requirements of this section shall provide replacement or fee-in-lieu at double (2x) the base rate required in Sec. 33-6.27.10.

* * *

18. Amend Chapter 33 Unified Development Code, Sec. 33-10.2. Definitions applicable to this entire UDC, to transfer the definition for *Parish Arborist*, to read as follows:

Sec. 33-10.2. Definitions applicable to this entire UDC.

* * *

Parish Arborist shall mean an employee of the Jefferson Parish Department of Parkway or other third-party contractor employed by the Parish to fulfill the duties of the Department of Parkway who is a licensed arborist.

* * *

19. Amend Chapter 40 Zoning, Sec. 40-33. Overlay zoning districts, to update the section reference for the MRTPD overlay zoning district, to read as follows:

Sec. 40-33. Overlay zoning districts.

The following overlay zoning districts are established for unincorporated Jefferson Parish. These districts impose additional requirements on certain properties within one or more underlying base zoning districts.

* * *

- (4) MRTPD Metairie Ridge Tree Preservation District is an overlay zoning district with boundaries defined with [in Article X.5](#) [Sec. 33-3.66](#) Metairie Ridge Tree Preservation District of this chapter [Code](#).

* * *

20. Amend Chapter 40 Zoning, Sec. 40-112 (R-1B), to delete current tree preservation regulations for larger lot zoning districts and update subsequent section numbers accordingly, to read as follows:

~~Sec. 40-112. Tree preservation.~~

~~All development shall, to the greatest extent possible, include the preservation of all trees larger than eight (8) inches in diameter as measured at a point four and one-half (4.5) feet above the ground and determined to be a significant tree by the Jefferson Parish Department of Parkways:~~

~~(1) Prior to the clearance of the site, applicants for building permits shall provide a tree survey on a site plan showing where significant trees are located.~~

~~—— (2) The location of the trees to be preserved shall be incorporated in the design of the parking lot and building layout of the development.~~

~~(3) All significant trees requiring removal shall be replaced by the planting of at least two (2) trees of a similar species. The replacement trees shall be in addition to all other landscaping requirements.~~

~~(4) During construction, the significant trees shall be protected by a fence at the drip line of the tree or at a distance of ten (10) feet from the trunk, whichever is greater, and using accepted tree protection techniques.~~

Sec. 40-113². Exceptions.

* * *

Sec. 40-114³. Exterior wall materials.

* * *

Sec. 40-115⁴. Sign regulations.

* * *

Sec. 40-116⁵. Landscaping standards.

* * *

Secs. 40-117⁶--40-125. Reserved.

21. Amend Chapter 40 Zoning, Sec. 40-132 (R-1C), to delete current tree preservation regulations for larger lot zoning districts and update subsequent section numbers accordingly, to read as follows :

~~Sec. 40-132. Tree preservation.~~

~~All development shall, to the greatest extent possible, include the preservation of all trees larger than eight (8) inches in diameter as measured at a point four and one-half (4.5) feet above the ground and determined to be a significant tree by the Jefferson Parish Department of Parkways:~~

~~(1) Prior to the clearance of the site, applicants for building permits shall provide a tree survey on a site plan showing where significant trees are located.~~

~~——(2) The location of the trees to be preserved shall be incorporated in the design of the parking lot and building layout of the development.~~

~~(3) All significant trees requiring removal shall be replaced by the planting of at least two (2) trees of a similar species. The replacement trees shall be in addition to all other landscaping requirements.~~

~~(4) During construction, the significant trees shall be protected by a fence at the drip line of the tree or at a distance of ten (10) feet from the trunk, whichever is greater, and using accepted tree protection techniques.~~

Sec. 40-133². Exceptions.

* * *

Sec. 40-134³. Exterior wall materials.

* * *

Sec. 40-135⁴. Sign regulations.

* * *

Sec. 40-136⁵. Landscaping standards.

* * *

Secs. 40-137⁶--40-145. Reserved.

22. Amend Chapter 40 Zoning, Sec. 40-152. (R-1D), to delete current tree preservation regulations for larger lot zoning districts and update subsequent section numbers accordingly, to read as follows:

~~Sec. 40-152. Tree preservation.~~

~~All development shall, to the greatest extent possible, include the preservation of all trees larger than eight (8) inches in diameter as measured at a point four and one-half (4.5) feet above the ground and determined to be a significant tree by the Jefferson Parish Department of Parkways:~~

~~(1) Prior to the clearance of the site, applicants for building permits shall provide a tree survey on a site plan showing where significant trees are located.~~

~~—— (2) The location of the trees to be preserved shall be incorporated in the design of the parking lot and building layout of the development.~~

~~(3) All significant trees requiring removal shall be replaced by the planting of at least two (2) trees of a similar species. The replacement trees shall be in addition to all other landscaping requirements.~~

~~(4) During construction, the significant trees shall be protected by a fence at the drip line of the tree or at a distance of ten (10) feet from the trunk, whichever is greater, and using accepted tree protection techniques.~~

Sec. 40-153². Exceptions.

* * *

Sec. 40-154³. Exterior wall materials.

* * *

Sec. 40-155~~4~~. Sign regulations.

* * *

Sec. 40-156~~5~~. Landscaping standards.

* * *

Secs. 40-157~~6~~--40-165. Reserved.

23. Amend Chapter 40 Zoning, Article X.5 Metairie Ridge Tree Preservation District (MRTPD) to delete the content and reserve the article and sections, to read as follows:

**ARTICLE X.5 METAIRIE RIDGE TREE PRESERVATION DISTRICT
(MRTPD) (RESERVED)**

Secs. 40-175--~~40-185~~. Reserved.

[Chapter 40 Zoning, Article X.5 Metairie Ridge Tree Preservation District (MRTPD), is deleted but not shown in strike-through]

24. Amend Chapter 40 Zoning, Article XXXV. Off-Street Parking, Loading and Clear Vision Area Regulations, Sec. 40-665. *Clear vision area regulations*, to remove and amend the reference to the MRTPD, as applicable, to read as follows:

* * *

(g) *Exemptions.*

(1) Objects exempt from clear vision area regulations include:

* * *
* * *

c. Trees protected by ~~Article X.5~~ **Sec. 33-3.66**. *Metairie Ridge Tree Preservation District (MRTPD)* or by ~~Sec. 33-3.65. *Old Metairie Neighborhood Conservation District (OMNCD)*~~.

* * *

25. Amend Chapter 40 Zoning, Article XLII. Board of Zoning Adjustments (BZA), Sec. 40-792. *Powers of the Board*, to update the reference to the MRTPD appeals, to read as follows:

The Board of Zoning Adjustments shall have all the powers and duties prescribed by this ordinance, which are more particularly specified as follows:

(1) *Appeals.*

a. Except as otherwise provided, to hear and decide appeals where it

is alleged there is error in any order, requirement, decision or determination made by the Director of Inspection and Code Enforcement or the Planning Director.

- b. To hear and decide appeals to the Metairie Ridge Tree Preservation District (MRTPD) or tree preservation requirements, as specified in Sec. 40-181 (f) Sec. 33-3.66.7.3. and Sec. 33-6.27.12.

* * *

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TXT-1-22:Tree Preservation Study

Summary No. 25938

Jefferson Parish Planning Department | 6-29-22 Council

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Study Call and Purpose

- Resolution No. 136707, December 9, 2020
 - Extended via Resolution No. 138642 adopted on December 8, 2021
- **Study Intent: Evaluate or amend standards and procedures pertaining to tree preservation, including tree replacement, violations, enforcement, and penalties; and related matters**
- Includes interim standard for OMNCD: Uncontested tree removal is permitted within the buildable area, but not the required front, rear, or side yards

TXT-1-22: Tree Preservation | Summary No. 25938

06/29/22 Council

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Background: Current Regulations

- Certain base (**R-1B**, **R-1C**, and **R-1D**) and overlay zoning districts (**MRTPD** and **OMNCD**) require tree preservation of significant trees
 - Code includes lists of significant trees to be preserved and protected.
 - Specific preservation requirements vary by district.
 - Procedures for permitting tree removal and construction activities requiring tree protection are provided in the OMNCD and MRTPD, not specified in base districts where required.
- Tree removal is permitted for significant trees that meet certain criteria with required tree replacement or payment of a fee-in-lieu
- General provisions and penalties in place for unlawful tree removal and other related violations
- **Chapter 37 Vegetation of the Code addresses tree protection on public property, and review of this chapter is outside the scope of this study**

TXT-1-22: Tree Preservation | Summary No. 25938

06/29/22 Council

Background: Significant Trees

Protected Trees with a DBH of eight (8) inches or more.

General Tree Preservation (Sec. 33-6.27)	MRTPD/OMNCD
Live Oak	All Oaks
American Elm	All Elms
Bald Cypress (except those within 15' of a parking space or foundation)	All Bald Cypress
Southern and Sweetbay Magnolia	Southern, Sweetbay, and Japanese Magnolia
Sycamore	Sycamore
	Pecan
	Any tree that contributes to the canopy that has a DBH of 24 inches or more

*Only considered significant in the MRTPD and OMNCD

Oaks



Pecan*



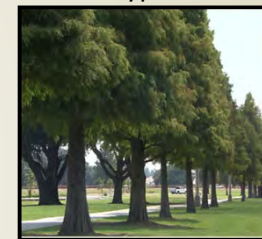
Sycamore



All Elms



Bald Cypress

Magnolias
Southern

Japanese*



Sweetbay



TXT-1-22: Tree Preservation | Summary No. 25938

06/29/22 Council

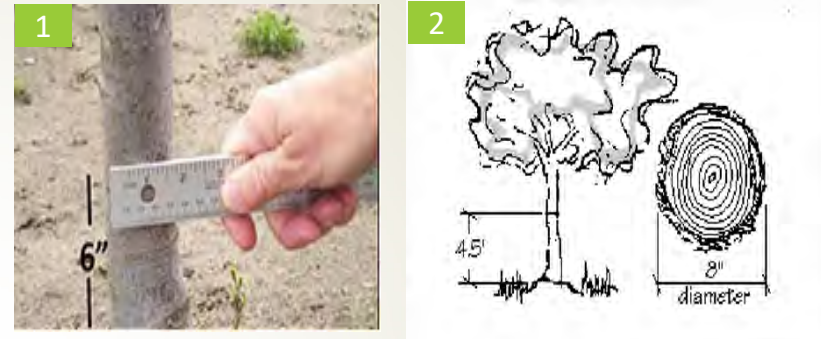
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Common Tree Terms

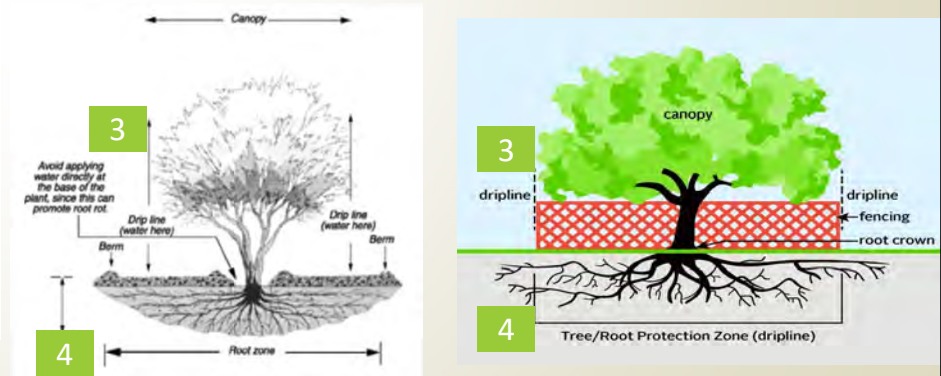
Common tree terms and definitions are provided in the Code. Some definitions related to tree measurement and protection are provided below:

- 1) *Caliper*: Diameter measurement of the trunk of a tree taken from a point six (6) inches above final grade.
 - 2) *Diameter breast height (DBH)*: Diameter of a tree measured four and one-half (4½) feet above the ground level for existing trees. Diameter at breast height may appear as the abbreviation "DBH."
- Caliper** is a measurement used when planting, and **DBH** measures its diameter at maturity
- 3) *Drip Line*: The farthest distance away from the trunk that rain or dew will fall directly to the ground from the leaves or branches of the tree.
 - 4) *Root protection (RPZ)*: The area within the tree's drip line.

Diameter Measurement



Protection



TXT-1-22: Tree Preservation | Summary No. 25938

06/29/22 Council

Background: Tree Protection and Removal

R-1B, R-1C, and R-1D:

All development shall, **to the greatest extent possible**, include the preservation of all significant trees larger than 8 in. DBH:

- Tree survey on a site plan required prior to the clearance of the site
- The location of the trees to be preserved shall be incorporated in the design of the **parking lot and building layout of the development**
- All significant trees requiring removal shall be replaced by the planting of **at least 2 trees** of a similar species.
 - Replacement trees shall be in addition to all other landscaping requirements.
- During construction, the significant trees shall be protected by a fence at the drip line of the tree or at a distance of 10 feet from the trunk, whichever is greater, and using accepted tree protection techniques.

Background: Tree Protection and Removal

Significant trees are required to be protected during construction and preserved in the OMNCD and MRTPD:

- **Protection during construction activities:**
 - Construction activity, including excavation, filling, grading, trenching, demolition, construction, or other activity is prohibited within the root protection zone (RPZ)
 - Protective barrier around each protected tree or group of protected trees
 - Additional activity restrictions within the RPZ for protected/significant trees
 - Only one access route permitted
- **Additional protections related to the RPZ for:**
 - Trenching, digging, boring and planting standards
 - Parking, storage, mixing, or dumping are prohibited
 - No soil fill greater than 2in. Other than wood chips or mulch, within the RPZ
 - Only **permeable** paving permitted within RPZs



TXT-1-22: Tree Preservation | Summary No. 25938

06/29/22 Council

Current Regulations: Tree Protection and Removal

• Uncontested tree removal:

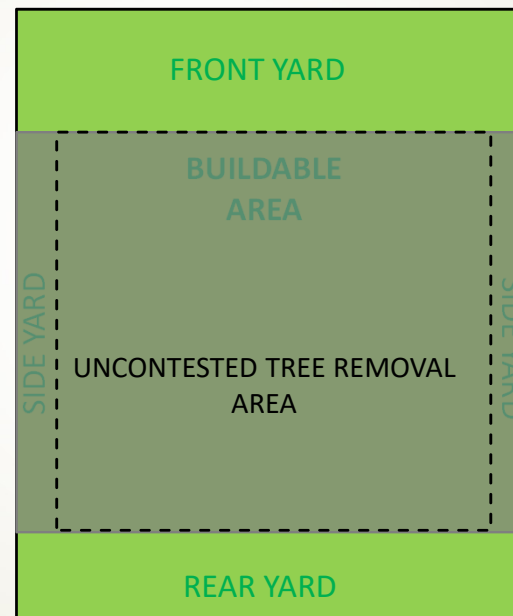
In the **MRTPD**:

- Healthy protected and significant trees permitted to be removed within the uncontested tree removal area (buildable area and side yard) with **no replacement required**.

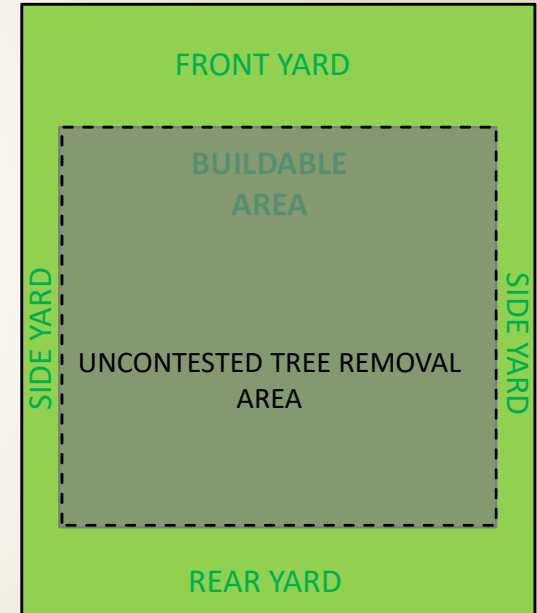
In the **OMNCD**:

- Currently in the Code: No uncontested tree removal for healthy trees; but the
- ***Interim standard temporarily allows*** : Uncontested tree removal of healthy trees within the buildable area, **with no replacement required**.

MRTPD Standards



OMNCD Interim Standards



In MRTPD, any tree, even if protected, with 50% base within "uncontested tree removal area" may be removed

TXT-1-22: Tree Preservation | Summary No. 25938

06/29/22 Council

Current Regulations: Tree Protection and Removal

In the protected and contested areas:

- **Tree Removal of significant trees may be permitted provided the following criteria are met:**
 - The protected tree is diseased or hazardous, as certified by a licensed arborist.
 - Where the buildable area is a preservation area, the protected tree is located in the buildable area and would substantially hinder the development of the site.
 - Only **the Parish Council** may approve the cutting or removal of a heritage, historic, or landmark tree.
- **Permitted tree removal triggers required replacement or fee-in-lieu based upon current market value of required trees**
- **Tree Replacement:**
 - Each protected tree that is to be replaced shall be replaced on-site **with a tree of the same or similar species with a minimum trunk size of 2 ½ inch caliper.**
 - Trees determined by a licensed arborist to be **hazardous or diseased** may be replaced **1:1 ratio**, only if that determination is corroborated by the Parish Arborist.
 - In all cases, the Parish Arborist's determination of the health of a tree shall prevail. A replacement tree must meet additional criteria.

TXT-1-22: Tree Preservation | Summary No. 25938

06/29/22 Council

Current Regulations: Tree Replacement/ Fee-in-Lieu

- **Tree Replacement:**

- Replacement shall occur within 1 year of the date of approval for the removal.
- For tree removal associated with a building permit, trees shall be replaced before the **issuance of the certificate of completeness by ICE**, but after the inspection and certification by the Parish Landscape Architect or Parish Arborist.
- For protected trees that must be replaced as a result of construction-related damage, replacement shall occur as soon as practicable given growing conditions, but no later than one (1) calendar year after the protected tree was removed.

- **Fee-In-Lieu:**

- Property owner may provide the monetary value of the replacement tree(s), as determined by the Parish Landscape Architect or Parish Arborist.
- This value shall be established based upon the current market value for local nursery stock.
- The money is placed special parish fund dedicated to the planting or maintenance of trees on Jefferson Parish public property.

TXT-1-22: Tree Preservation | Summary No. 25938

06/29/22 Council

Current Regulations: Violations & Penalties

Applicant pays
violation fee

Applicant applies for
a permit and follows
standard permitting
procedures

If required, applicant
must provide
replacement/fee-in-
lieu.

Violations & Penalties

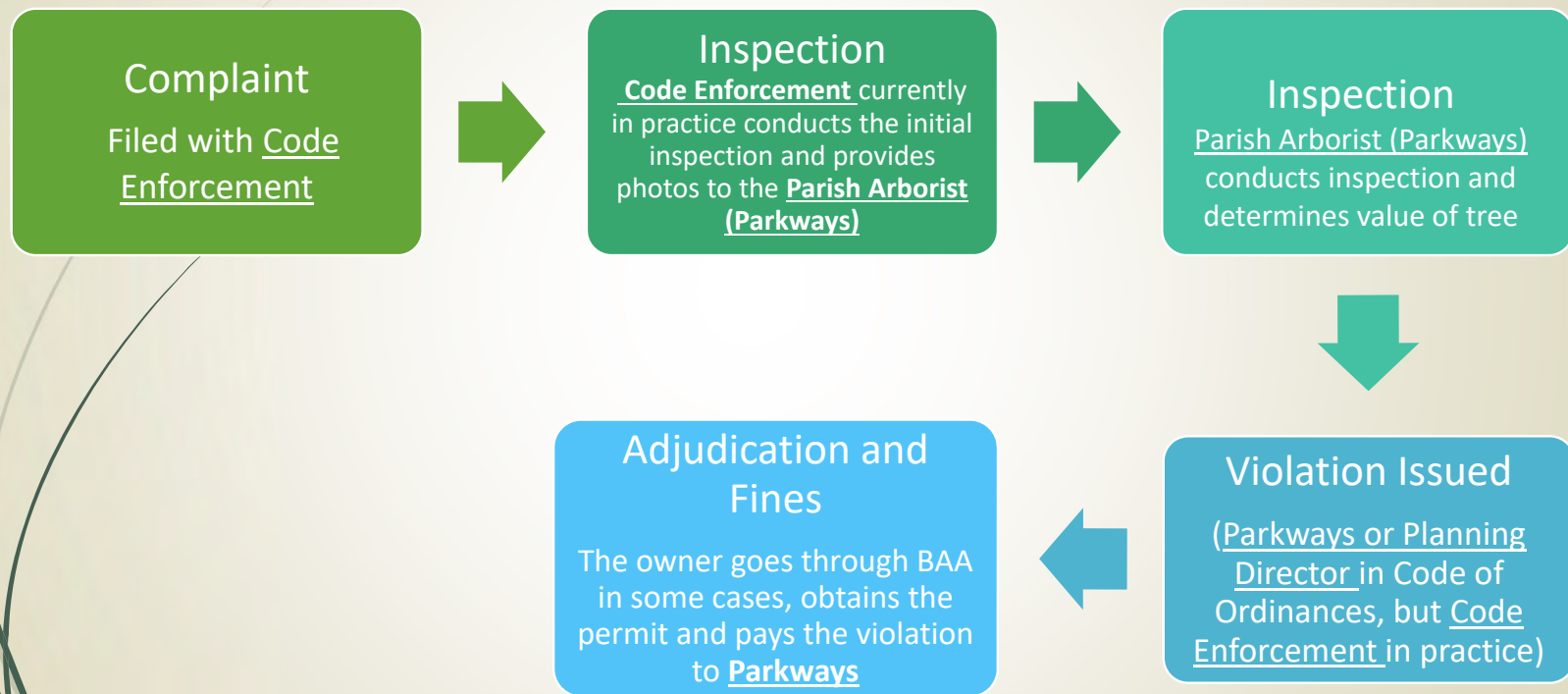
- All monetary proceeds shall be allocated for planting or maintenance of trees on public property .
- Damage to protected/significant tree due to non construction **\$500 per tree**
Unlawful tree removal **\$500 per tree**
- Submitting false information – **Max. \$500 fine**
- **Revocation of parish license for state licensed professionals for violations of the section**

TXT-1-22: Tree Preservation | Summary No. 25938

06/29/22 Council

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Enforcement Procedures



TXT-1-22: Tree Preservation | Summary No. 25938

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General Issues with Current Regulations

► Tree Preservation and Removal

- Tree preservation provisions in the larger lot base zoning (R-1B, R-1C, R-1D) districts are vague and conflict with general tree preservation requirements.
 - No recent permits for tree removal in recent years
 - Certain situations where OMNCD or MRTPD already apply
 - Mapped in certain areas of the Parish where there may not be a concentration of significant trees
- OMNCD: Current interim standard that allows uncontested tree removal within the buildable area is appropriate, but should require replacement
- MRTPD: Current standards are appropriate, but added replacement requirements can help deter unlawful removal and increase existing tree canopy

► Replacement

- Ratios for replacement are either inconsistent or need to be clarified.
 - 1:1 Replacement in Chapter 33; 2:1 Replacement in Chapter 40.

► Violations and Enforcement

- Penalties vary based on type of violation
- The processes for compliance, replacement and handling proceeds from violations are unclear

Additional Research: Best Practice & Community Comparison

- ▶ **Best practices research. Key points include:**
 - ▶ Balancing regulations with enforcement capability;
 - ▶ Consideration of different lot sizes and zoning in determining appropriate tree protection; and
 - ▶ Fairness and equity.
- ▶ **Community Comparison:** Evaluated regulations of 11 other similar jurisdictions.
 - ▶ Louisiana:
 - ▶ Max fines of \$500, tree preservation only required in some jurisdictions, **jurisdictions that do have tree protection have strict replacement standards including replacement based on 1 in:1 in. DBH replacement**
 - ▶ National:
 - ▶ Higher violations
 - ▶ Strict replacement requirements

Community Comparison Louisiana:

1. Mandeville
2. Orleans Parish
3. Central
4. Slidell
5. St. Tammany

Parish

6. Covington

National:

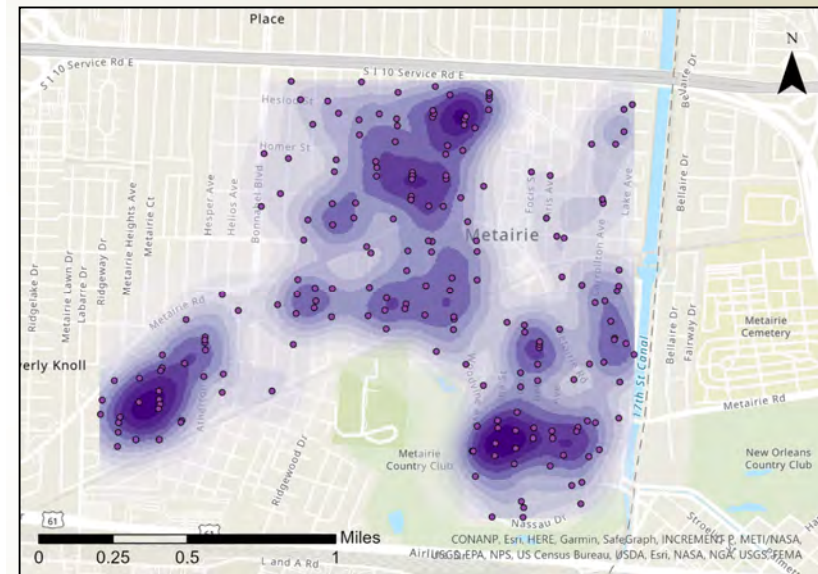
6. Biloxi, MS
7. Fulton County, GA
8. Cherokee County, GA
9. Houston, TX
10. Mobile, AL
11. Lake Forest, IL

Additional Research: Permit and Violation Review

Staff reviewed 218 permits and violations between January 2019 and August 2021 and:

- Identified a cluster of tree removal permits in OMNCD and MRTPD (refer to map)
 - No tree removal permits issued for other areas of the Parish.
- Evaluated the frequency of replacement versus fee-in-lieu;
- Recognized scenarios where tree removal was permitted without required replacement;
- Classified types of trees removed based on species type; and
- Assessed the number of violations within the 2 ½ year review timeframe.

Tree Removal Permits



TXT-1-22: Tree Preservation | Summary No. 25938

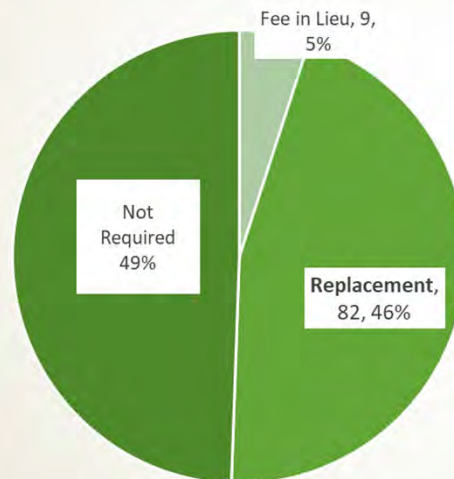
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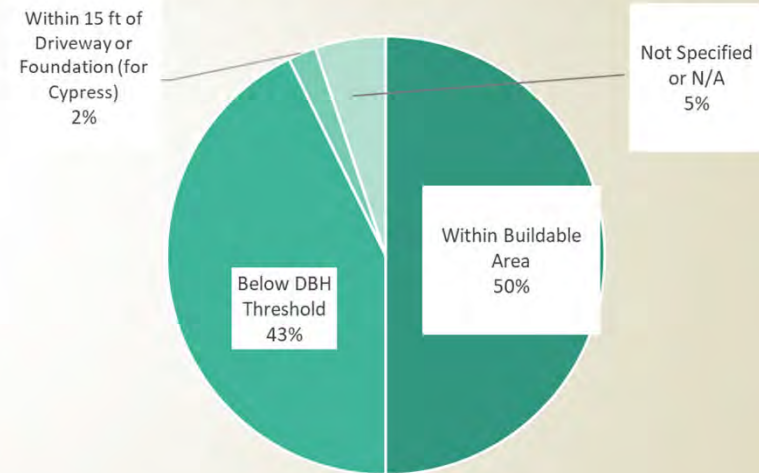
Tree Removal Permits Research

- Remediation was required a little over half the time (51%)
- Most applicants chose to replace trees instead of pay the fee-in-lieu.
- \$11,000.00 in total fees collected from the fee-in-lieu option.
- Approximately ½ of tree removal applications did not trigger replacement due to size of tree or location within the uncontested tree removal area.

Type of Remediation Chosen by Applicants



Remediation was not Required Because...

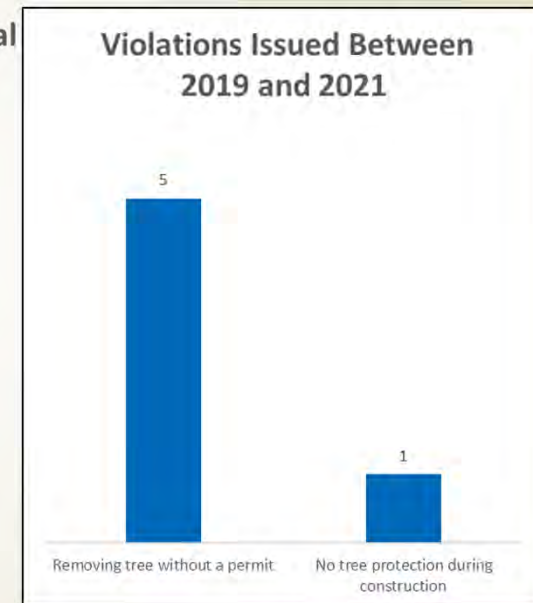
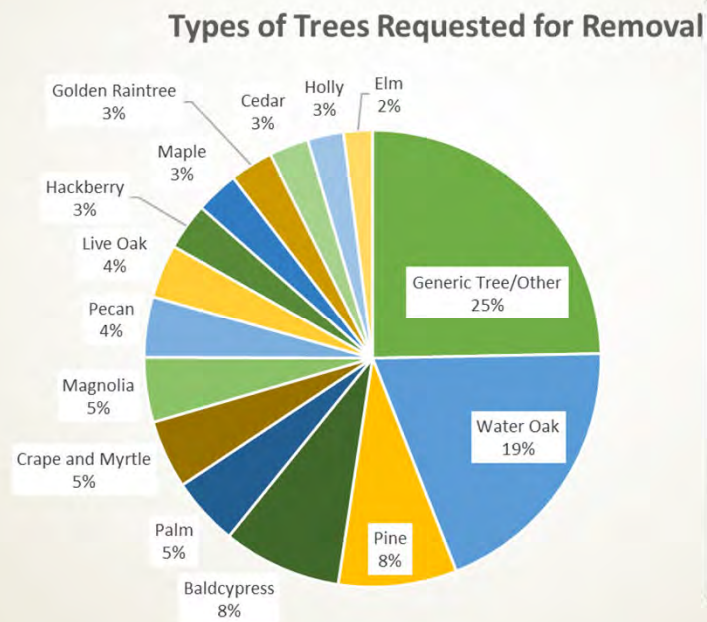


TXT-1-22: Tree Preservation | Summary No. 25938

06/29/22 Council

Tree Removal Permits Research

- Water Oak is the most common species requested for tree removal (76/393)
- Only 6 violations were issued during the time period reviewed, 5 were for unlawful tree removal



TXT-1-22: Tree Preservation | Summary No. 25938

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Findings and Approach

General Findings

- Replacement/ fee-in-lieu is only required in about half of permitted removals.
- Violations are relatively uncommon.
- Current tree regulations are vague and sometimes contradictory.
- Increasing the replacement requirement can act as both a form of discouragement for unlawful removal and a tangible way to increase the tree canopy.
- Additional fines associated with illegal tree removal tend to be less than the monetary value of significant trees that are removed.

Approach

■ Tree preservation and removal:

- Allow uncontested tree removal within the buildable area in the OMNCD and MRTPD with replacement
- Remove outdated and vague provisions in the R-1B, R-1C, and R-1D
- Create a single list of significant trees and prohibited trees

■ Replacement:

- Increase number of replacement trees based on size and condition

■ Violations:

- State that violations shall accrue **per violation, per day** they are not resolved with the Parish
- Increase replacement requirement for unlawful removal
- Clarify procedures for permitting

■ Enforcement:

- Clarify procedures for inspections, citations, and fees

■ Address other related matters including reorganization

TXT-1-22: Tree Preservation | Summary No. 25938

06/29/22 Council

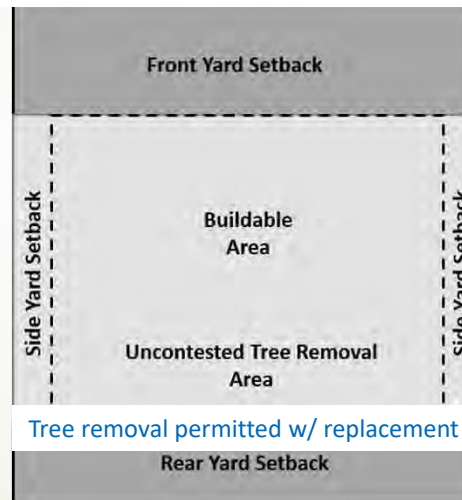
Tree Preservation & Removal: Base and Overlay Districts

R-1B, R-1C, and R-1D :

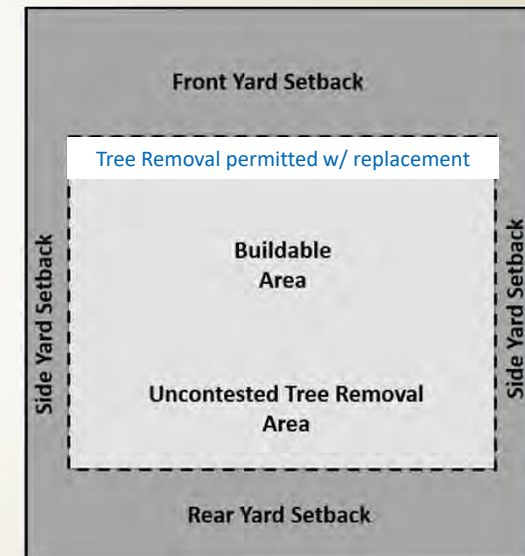
- Delete existing provisions
- Update Subsequent Section Numbers Accordingly

**No tree
preservation
required**

MRTPD: Continue to allow tree removal within buildable area and side yard, with **required replacement based on DBH**



OMNCD: **Allow** tree removal within **buildable area**, not the side yard, with **required replacement based on DBH**



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Tree Preservation and Removal: Significant Trees

Issues:

- Unnecessary to have 2 lists of significant trees
- Water Oak is listed on Parkways list of prohibited trees
- Tree preservation applies primarily to **MRTPD** and **OMNCD**

Recommendation:

- **MRTPD** significant trees shall apply generally where tree preservation is required with additional modifications:
- Remove Water Oaks, add all Magnolias, and maintain exception for bald cypress within 15 ft. from foundation
- Transfer list from 40-180 to Ch. 33, and modify list in Sec. 33-6.27 accordingly

Significant Trees with 8 in. DBH or more		
	General (Current)	MRTPD and OMNCD (Additional modifications) (All Proposed Parishwide)
Oak	Live	All, except Water Oaks
Elm	American	All
Bald Cypress	Bald Cypress (except those within 15' of a parking space or foundation)	All Bald Cypress, except those located within fifteen (15) feet of a building foundation
Magnolia	Southern and Sweetbay	Southern, Sweetbay, and Japanese (All)
Sycamore	Sycamore	Sycamore
Other Species	N/A	Pecan
DBH	N/A	Any trees over 24 in. DBH

TXT-1-22: Tree Preservation | Summary No. 25938

06/29/22 Council

Tree Preservation and Removal: Prohibited Trees for Replacement

In addition to clarifying significant trees that need to be protected, need to clarify list of trees species that should be prohibited for required replacement

Ash, Arizonia <i>Fraxinus velutina</i>	Locust, Black <i>Robinia pseudoacacia</i>
Banana <i>Musa x paradisiaca</i>	Maple, Silver <i>Acer saccharinum</i>
Boxelder <i>Acer negundo</i>	Mesquite <i>Prosopis glandulosa</i>
Camphor <i>Cinnamomum camphora</i>	Mimosa <i>Albizia julibrissin</i>
Catalpa <i>Catalpa bignonioides</i>	Mulberry, Red <i>Morus rubra</i>
Cherry, Black <i>Prunus serotina</i>	Mulberry, Paper <i>Broussonetia papyrifera</i>
Chinaberry <i>Melia azedarach</i>	Oak, Water <i>Quercus nigra</i>
Chinese Parasol <i>Firmiana simplex</i>	Osage Orange <i>Maclura pomifera</i>
Chinese Tallow <i>Sapium sebiferum</i>	Pear, Bradford <i>Pyrus calleryana</i> 'Bradford'
Citrus species	Pine, Loblolly <i>Pinus taeda</i>
Coral Tree <i>Erythrina crista-galli</i>	Plum, Purpleleaf <i>Prunus cerasifera</i>
Cottonwood <i>Populus deltoids</i>	Poplar, White <i>Populus alba</i>
Cypress, Italian <i>Cupressus sempervirens</i>	Poplar, Lombardy <i>Populus nigra</i> 'Italica'
Cypress, Leyland <i>Cupressocyparis leylandii</i>	Princess Tree <i>Paulownia tomentosa</i>
Elm, Siberian <i>Ulmus pumila</i>	Sumac, Shining <i>Rhus copallina</i>
Fig <i>Ficus carica</i>	Sycamore <i>Platanus occidentalis</i>
Fir, China <i>Cunninghamia lanceolata</i>	Sweetgum <i>Liquidambar styraciflua</i>
Golden Rain <i>Koelreuteria bipinnata</i>	Tree Ligustrum <i>Ligustrum lucidum</i>
Gum, Tupelo <i>Nyssa aquatic</i>	Vitex <i>Vitex agnus-castus</i>
Hackberry <i>Celtis laevigata</i>	Willow, Black <i>Salix nigra</i>
Japanese Plum <i>Eriobotrya japonica</i>	Willow, Weeping <i>Salix babylonica</i>
Jerusalem Thorn <i>Parkinsonia aculeate</i>	(All zone 10 or higher trees and palms)

TXT-1-22: Tree Preservation | Summary No. 25938

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Tree Replacement

Issues:

- Other communities have stricter replacement requirements for removal of trees
- Adding more stringent tree replacement can deter illegal removal

Recommendation:

- **Require protected trees that are removed to be replaced by size and condition:**
 - **Trees with 12-inch DBH or less= a 1-inch DBH:1-inch caliper ratio.**
 - **Trees over 12-inch DBH=1-inch DBH:1-inch caliper ratio up to 12 inches, plus \$100 per inch DBH thereafter.**
 - Maintain requirement that a diseased or hazardous tree shall be required to be replaced on a 1 tree:1 tree ratio.
- **Stipulate that fee-in-lieu payments must equal the Per DBH cost of replacement trees and clarify how proceeds shall be handled when payment is required as part of replacement or fee-in-lieu.**

Example: Live Oak 24 in. DBH

Required replacement = Significant tree(s) that total 12 in. DBH plus

Fee: 12 in x \$100= \$1,200



TXT-1-22: Tree Preservation | Summary No. 25938

06/29/22 Council

Tree Replacement: Maintenance

Issues:

- Currently, no maintenance requirements for replacement trees
- Maintenance requirements for other types of development in the Parish
- Will help ensure the health and the longevity of the tree canopy

Recommendation:

- **Require tree maintenance and watering within the first year of planting and stipulate that, the parish arborist, or landscape architect shall conduct a site visit approximately 1 year following the date of planting to ensure that replacement trees have been planted and are healthy.**
- **Clarify that trees need to be maintained over the lifetime of the development.**
- **Violations could be applied at this time for situations where replacement trees have not been planted or have not been adequately cared for.**



Violations

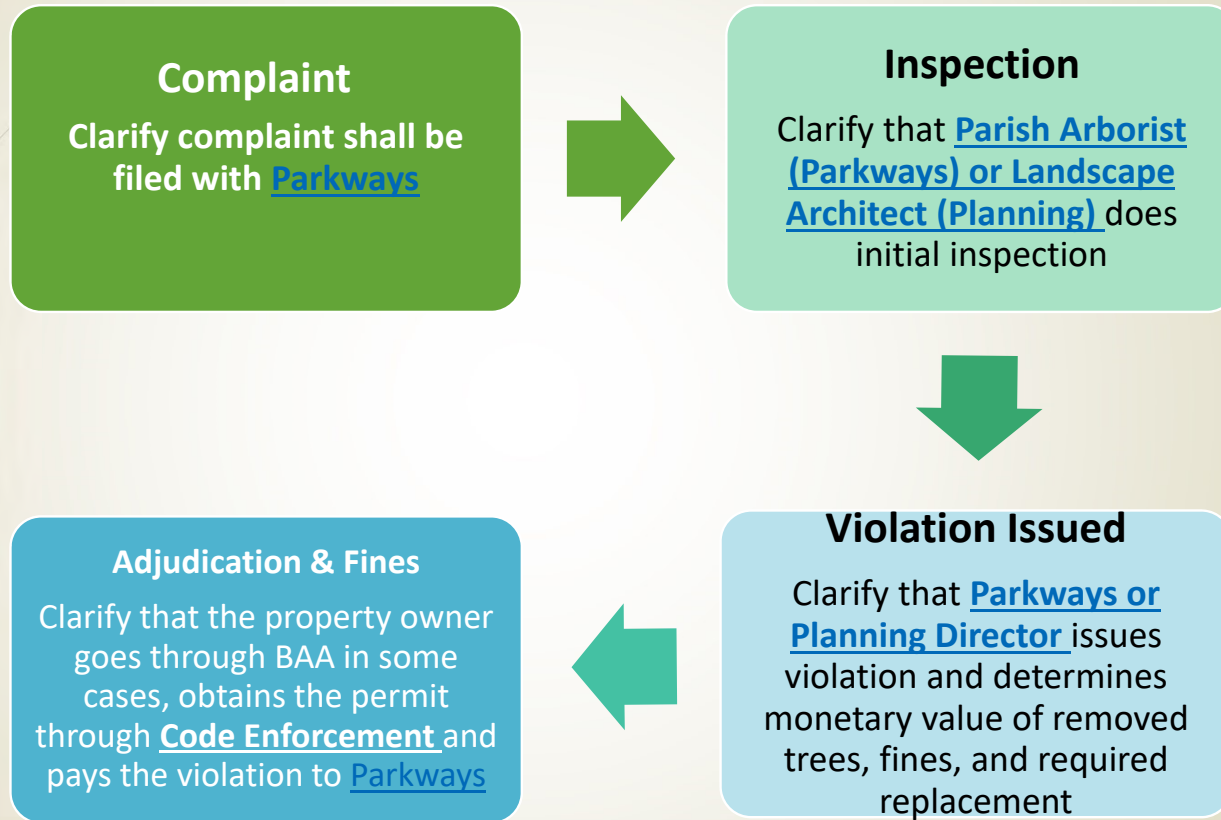
Issues:

- The language for violations are different within the section and the rest of the Code
- Additional fines associated with illegal tree removal tend to be less than the monetary value of significant trees that are removed
- Penalties vary based on type of violation
- The processes for compliance, replacement, and handling proceeds from violations are unclear

Recommendations:

- State that violations shall accrue per violation, per day they are not resolved with the Parish
- Clarify that those in violation of the tree preservation regulations shall pay the violation fee and then obtain a permit, including replacement and/or fee-in-lieu
- Require **double (2x) replacement** for unlawful tree removal
- Clarify that all monetary proceeds from fines imposed from tree violations, excluding court costs, shall be paid to the Department of Parkways and shall be placed in a special account dedicated to the planting, **repair**, and maintenance of trees on public property

Enforcement



TXT-1-22: Tree Preservation | Summary No. 25938

06/29/22 Council

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Related Matters: Emergency Trees

Current:

- When a protected tree has suffered irreparable damage due to a weather phenomenon tree disease, or infestation, and poses imminent danger to public health and safety, the owner of the property may immediately remove said damaged tree without penalty or tree replacement.
- However, if the Parish Arborist determines that a protected tree removed in an emergency was not irreparably damaged, the property owner shall be in violation and subject to penalties.

Issues:

- Hard to prove unlawful non-emergency post-major storm event

Recommendation:

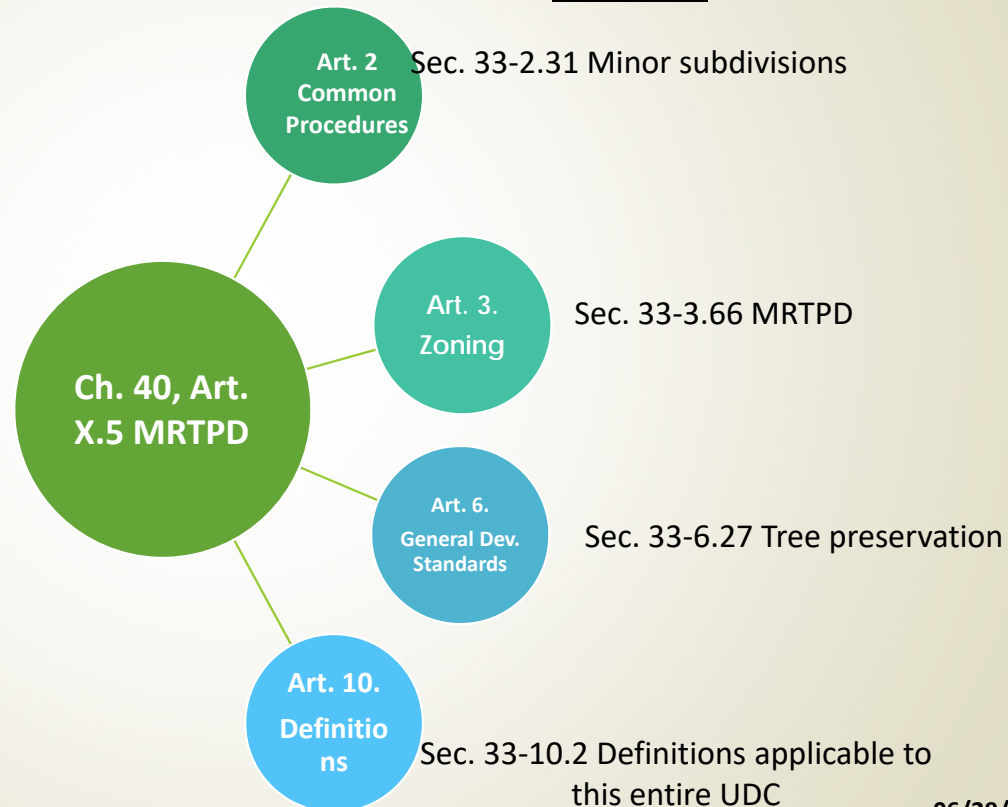
- **Add additional requirements for emergency tree removal:**
 - **Require tree removal permit within 30 days of emergency removal, including:**
 - **Certification from licensed professional plus supporting documentation**
 - **Require 1-tree: 1-tree replacement**

Related Matters: Move MRTPD to Ch. 33

Ch. 33

As part of the transition, the current **MRTPD** regs should be reformatted to be compatible with Ch. 33

Provisions will be moved to applicable sections and specific application requirements deleted and referenced as part of the Appendix to the Code



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Recommendations in Summary

► Tree Preservation and Removal

- **OMNCD**: Allow uncontested tree removal within the buildable area, but not the side yards, **plus require replacement**
- **MRTPD**: Continue to allow uncontested tree removal within buildable area and side yards, **plus add/require replacement**
- Base Zoning (**R-1B**, **R-1C**, and **R-1D**): Delete outdated and vague tree preservation provisions
- Significant Trees: Consolidate MRTPD and general tree preservations into single (1) list of significant trees
- Add prohibited list of trees for replacement

► Tree Replacement

- Require protected trees that are removed to be replaced on size and conditions:
 - Trees with 12 in. DBH or less= **1-inch DBH: 1-inch caliper ratio**
 - Trees over 12 in. DBH= **1-inch DBH: 1-inch caliper ratio for first 12 inches, \$100 per inch DBH thereafter**
 - Hazardous or diseased may be replaced= **one tree to one tree (1:1) ratio**
- Clarify that all monetary proceeds from required replacement, shall be paid to the Department of Parkways and shall be placed in a special account dedicated to the planting, **repair**, or maintenance **of trees** on public property

Recommendations in Summary

► Violations

- State that violations may accrue **per violation, per day** they are not resolved with the Parish
- Clarify that those in violation of the tree preservation regulations shall **pay the violation fee and then obtain a permit**, including replacement and/or fee-in-lieu
- **Require double (2x) replacement for unlawful tree removal**
- Clarify that all monetary proceeds from fines imposed from tree violations, excluding court costs, shall be paid to the Department of Parkways and shall be placed in a special account dedicated to the planting, **repair**, or maintenance **of trees** on public property

► Enforcement Procedures

- Clarify procedures for inspections, citations, and fee collection

► Related matters

- Add additional requirements for emergency tree removal
- Move MRTPD regulations to Ch. 33-6.27 Tree preservation and Sec. 33-3.66. MRTPD