

**Office of the City Manager**  
5200 Emerald Parkway • Dublin, OH 43017-1090  
Phone: 614-410-4400 • Fax: 614-410-4490



# Memo

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**To:** Members of the Planning and Zoning Commission  
**From:** Dana L. McDaniel, City Manager  
**Date:** May 18, 2017  
**Initiated** Claudia D. Husak, AICP, Senior Planner  
**By:** Brian Martin, Zoning Inspector, Certified Arborist  
Michael Hiatt, ISA, Zoning Inspector  
Shawn Krawetzki, PLA, ASLA, CPSI, Landscape Architect  
Jennifer D. Readler, Law Director  
**Re:** Tree Replacement Fee Waiver Policy

## Background

City Council discussed the Tree Waiver Policy in the Fall of 2016 and requested staff follow-up regarding potential modifications to the City's approach to addressing tree replacement waiver requests. At the April 10, 2017 meeting, staff provided a summary memo to Council requesting authorization to advance an update to the Tree Waiver Policy. This memo summarizes the proposed updates to the policy and staff requests a recommendation of approval from the Planning and Zoning Commission to City Council of the proposal.

Staff has reached out to other communities and researched tree preservation and replacement requirements, which are included in the accompanying benchmarking document.

## History

The tree preservation chapter applies to healthy trees which have a minimum diameter of six inches breast height, considered "protected" trees. A tree preservation plan is required to be submitted prior to any construction activity and the Code requires all reasonable effort be made to design the site to avoid unnecessary tree removal. Protected trees that are removed are required to be replaced inch-for-inch within one year of removal with deciduous trees at a minimum size of 2.5 inches. A fee in lieu of tree replacement may be paid if full replacement would result in unreasonable crowding.

The fee is based on the excess aggregate of diameter and currently is \$100 per caliper inch.

The tree waiver policy was adopted by City Council in 2001 to create a more uniform and objective approach to tree waivers due to the increasing number of waiver requests at the time. The goal was to find a way to balance the intent of the tree preservation ordinance, approved by Council in October of 1998, against the actual financial hardship imposed by full implementation. Sites considered "heavily wooded" presented a challenge to the replacement requirements. A heavily wooded site has been defined as land containing at least 100 protected trees per acre or 1,000 total inches of protected trees per acre. The adopted tree waiver policy allows, if approved by City Council on a case by case basis, for tree-for-tree replacement to occur rather than inch-for-inch replacement for protected trees between six and 23 inches in diameter. The policy was amended to include a provision that landmark trees (24 inches or greater in diameter) be exempt from the tree-for-tree replacement and be replaced inch-for-inch.

A majority of the waivers have been requested as stand-alone Council actions, and Council has granted a total of 22 waivers (six were approved prior to the adoption of the policy). Several developments, however, have requested relief from the tree replacement requirement through development agreements and through the Planned District rezoning process by incorporating waiver language in the development text.

The tree waiver for Lifetime Fitness was incorporated into the development agreement and the Wasatch Estates (Deer Run), Tartan Ridge and Tartan West developments include tree waivers in the approved development texts. As part of the rezoning request for Celtic Crossing, Council requested the removal of the tree waiver from the development text and instructed staff to no longer include tree waivers through this method.

The current tree replacement fee waiver policy takes into consideration whether all codes have been met on the site and if methods have been used to minimize tree destruction. City Council approved this policy in March, 2001. Given these minimal criteria and a lack of submission requirements the administration of this policy has, at times, been difficult. In the fall of 2016, Council requested staff provide criteria that more clearly define when a tree waiver may be appropriate.

## **Proposal**

As requested by Council, Staff has reviewed the history and intent of the tree waiver policy to help formulate an update to the current program. While there are fewer than five sites considered heavily wooded in the City, many developers continue to discuss the option of a fee waiver during their initial meetings with staff. Developers are responsive to the City's desire to preserve as many trees as practical, however some tree removal is unavoidable. In some cases, this can still add up to a sizeable replacement requirement.

Staff's proposal for a revised tree waiver policy includes three new eligibility criteria for a site for which a waiver is requested. These criteria address the number of trees and

inches present on a site and/or disturbed as part of development; the percentage of preservation of trees incorporated into the proposed site layout; and the requirement of a tree removal permit prior to any removal.

Together with staff from the Department of Parks and Recreation, Planning has created a submission requirement list, which relies heavily on information regarding the size, species and conditions of trees as they relate to the proposed layout of development.

Staff proposed to not only require a tree survey with a listing of the species, size and condition but also a means of identifying the surveyed trees in the field to ensure staff can verify the accuracy of the survey. A comparison of Code required tree replacements versus the waiver request should also be required.

The revised policy includes definitions which, in more detail than the Code, describe tree conditions.

The major update to the policy deals with tree ratings and proposes a prioritization system for trees, where replacement is based on which type of tree is proposed to be removed. The prioritization also defines Landmark trees more clearly and addresses multi-trunk trees on how they are measured.

This update identifies replacement requirements that differ from the current policy based on a sliding scale for replacement trees depending on the tree priority category. As in the current policy, Landmark trees would continue to be replaced on an inch-for-inch basis. However, the three different priority categories would be replaced on a basis of 3 to 1 for Priority 1; 2 to 1 for Priority 2; and 1 to 1 for Priority 3. The update would allow replacements at 1.5 inches in caliper (Code requires 2.5 inches), however, staff has noted diversity and availability issues for the larger caliper requirements. Given the fast growth of trees at this size and their increased chances of survival, staff is confident that this proposed deviation from Code will provide the same high quality landscape as the larger trees within a short period of time.

The proposal also allows ornamental and evergreen trees to be used for up to 33% of tree replacements, which has been approved for several Planned Districts within the City, but is not currently permitted in the Zoning Code. Lastly, the proposal permits certain replacements trees to fulfill buffer requirements as stipulated in Planned District texts and in the Code for commercial property buffer requirements.

### **Recommendation**

Staff has drafted an updated Tree Waiver Policy, as requested by City Council that clearly addresses eligibility requirements, application submission contents, defines tree health and ratings and proposes a sliding scale for replacements. This updated policy will be easier to administer for staff and Council as the details are more clearly defined. While a policy is not approved by ordinance, Council requested input from the Commission on this proposal. Staff requests the Planning and Zoning Commission review this proposal and recommend approval of the updated Tree Waiver Policy to City Council.