

DEBUNKING MYTHS ABOUT LOCAL TREE ORDINANCES

RETAIN LOCAL RIGHTS FOR COMMUNITIES TO PRESERVE TREES

and SAVE TAXPAYERS MONEY

“We believe the Tree Ordinance is more than simply an aesthetic regulation. Instead, the Tree Ordinance was intended to, and does, regulate tree preservation to promote the health of the municipality and the orderly and healthful development of the community.”

**Fourth Court of Appeals, District of Texas, Opinion
No. 04-08-00479-CV, May 27, 2009**



Tree regulations support healthy urban growth, a growing economy, and high quality of life for community members.

Photo courtesy of City of Austin, 2016

PROPERTY RIGHTS AND TREE ORDINANCES

- ⇒ Property owners own the trees on their property, and in almost every circumstance, property owners in Texas have the right to trim or remove trees as they find necessary. Most trees are not regulated in municipalities as the majority of trees are small and not protected.
- ⇒ Over 50 cities and towns in Texas have written ordinances to protect trees in various ways. (Link: http://old.isatexas.com/Members/Municipal/TX_Tree_Ordinances.htm).
- ⇒ Most of these ordinances do **not** regulate what homeowners do with trees, but are directed toward **land development**, using various restrictions and/or incentives to preserve certain trees. Examples could be preventing clear-cutting on property that is in the flood plain, or preventing cutting of heritage trees of a certain diameter. Landowners who are developing property where cities have jurisdiction must meet certain requirements, like providing for stormwater management and drainage. Complying with city requirements regarding removal of certain trees is not a loss of property rights.

PRIVATE TREES = COMMUNITY BENEFIT AND TAXPAYER SAVINGS

While trees on private property are not owned by the community, they do provide benefits for the entire community, especially in cost savings for all taxpayers.

- ⇒ Trees are part of a city's infrastructure. When trees are removed during development, there are costs to the community.
- ⇒ Stormwater Management: Tree foliage absorbs and filters rainwater and helps to slow down stormwater during flood events. Mitigating for stormwater damage when trees are removed is a major cost to property owners. Excessive removal of trees in urban areas could result in millions of dollars in engineered stormwater controls if trees no longer provide this service.
- ⇒ Air Quality: Trees absorb air pollution and add back oxygen to the air, all of which improves air quality for communities. Reduced air quality adds to health costs.
- ⇒ Cooling: Trees in urban areas can cool the air by between 2 - 6 degrees C. When placed around buildings, trees can reduce air conditioning costs by 30% which also decreases air pollution. In urban areas, trees can reduce energy bills by millions of dollars across the city.
- ⇒ Land Value: Mature trees in neighborhoods can increase property values by up to 20%.
- ⇒ Public Health: Studies have shown that being around trees improves physical and mental health by increasing energy levels and decreasing stress. People also drive slower and crime is reduced in treed areas, making for safer neighborhoods.
- ⇒ Local Economy: Shoppers spend more time and money at businesses that have good tree cover. Trees are good for business.

AUTHORITY COMES FROM TEXAS LAW

Authority for cities to have tree preservation ordinances comes from Texas law.

- ⇒ Chapter 211 of the Texas Local Government Code allows a municipality to regulate land use for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural or architectural importance and significance.
- ⇒ As Attorney General of Texas in 2009, Greg Abbott issued an opinion that a home-rule city may enforce its reasonable land development regulations for the purposes of maintaining aesthetics and property values which would include landscaping and tree preservation (AG Opinion No. GA-0697) (Link: <https://casetext.com/case/opinion-no-2595>)
- ⇒ The Texas Fourth Court of Appeals found in 2009 that cities have authority to write rules preserving trees under the Texas Local Government Code. (Link: <http://caselaw.findlaw.com/tx-court-of-appeals/1094171.html>)

SPECIFIC ORDINANCES DERIVED FROM LOCAL COMMUNITY

Citizens living in cities decide whether to have tree ordinances and what kind.

- ⇒ Cities become incorporated because residents have a shared vision of how they want their community to develop. Citizens serve on boards and commissions that draft ordinances, sometimes including ordinances for tree preservation.
- ⇒ Usually a variety of stakeholders take part in the process of developing ordinances. For tree ordinances stakeholders could include residents, neighborhood associations, realtors, developers, local business people, arborists, and environmental associations.
- ⇒ Ultimately, responsibility for adopting an ordinance belongs to the locally-elected city officials. If citizens do not agree with an ordinance, they can work to repeal it, or to elect different officials.

Tree ordinances are developed locally, considering local resources, local growth patterns, and local sensibilities.

Local control is a cornerstone of democracy.

For more information visit www.defendtexastrees.org