

September 8, 2015

MEMORANDUM

TO: Tree Code Oversight Advisory Committee
FROM: Mike Hayakawa, BDS
RE: Tree preservation under Planning and Zoning; Land Divisions and Planned Developments (Title 33, Chapter 600)

During a recent meeting, Committee members asked about monitoring the performance of the tree regulations related to the land division process, which is found in [Chapter 33.630 \(Tree Preservation\)](#). Committee members were interested in knowing whether it is meeting the purpose of the regulations. This memorandum responds to this request.

Background. Chapter 33.630 contains tree preservation regulations that are imposed when an applicant proposes the creation of new lots. The highlights of the regulations are as follows:

- Only trees that are greater than 6 inches are regulated.
- Exemptions similar to those contained in Title 11 include trees on the nuisance plant list, those that are dead, dying or dangerous, trees within 10 feet of an existing building (that will remain), trees partially or completely within the public right-of-way and those in an environmental or Pleasant Valley natural Resources Overlay zones (the latter are regulated in different chapters).
- Tree preservation is required and the code provides a number of options through which this requirement can be met.
- Applicants must address approval criteria in proposing a preservation plan.
- There are mitigation options, including preservation of other trees, creating a tree tract, payment into the Tree Planting and Preservation Fund, etc.

Compliance with a tree plan will be part of land division decisions and the requirements of the plan will carry over onto the new created properties when building permit applications are submitted. The required tree preservation will be included in the data being collected on permits in TRACS, but it will not be specifically called out as a land division requirement. There are other Title 33 tree requirements (i.e. overlay zones and plan districts) that could also result in tree preservation on building permits.

Available tree preservation data for evaluation: The evaluation of the current regulations face the following challenges:

1. Chapter 33.630 was revised as part of the Tree Project, however these regulations have existed since 2002. Data was not consistently collected regarding outcomes of the prior code, so there is no baseline data for comparison. For this reason, it would be difficult to evaluate any measurable changes due to the code revisions.
2. Because the new regulations in question went into effect on January 2, 2015, the sample size would be extremely small at this point. As you know, land use reviews take a significant amount of time. Only a handful of land divisions where the new chapter 33.630 applied, have been completed.
3. TRACS is not designed to collect data that can be used to evaluate the performance of these specific regulations. As a result, any evaluation would require manual work and neither BDS nor Urban Forestry has resources available to conduct such a study. There may be future opportunities but at this time, there is not adequate staffing for this work.