

Neighborhood Forest Overlay (NFO)

Bullet Points and Frequently Asked Questions

Draft

The following is a list of bullet points to consider when discussing the NFO:

- The neighborhood can continue to watch trees be removed without being replaced (in many cases) which decreases property values and our quality of life or consider enacting an NFO as the preferred choice to address the problem.
- The NFO does **not** force anyone to preserve any trees, but it does help to conserve and expand tree canopy cover in the future. Conserving trees means they are replanted if they are removed but no trees are “protected”. Homeowners can remove any tree they want. If they have a good reason for removal (dead, diseased, decayed, etc....), it does not require replanting. If it is removed for no good reason and it is a protected tree species over eight inches in diameter (or caliper), it requires replanting the same number of inches in diameter as the tree removed...on the site. If the homeowner cannot plant on the site or prefers not to do so, funds for planting the same number of inches in trunk diameter can be put into the city’s reforestation fund. This ensures the area will continue to have significant canopy cover in the future and increases the value of properties in the neighborhood.
- The NFO is a city ordinance that includes complex language and penalties to make it legal and enforceable. Without being an ordinance that includes penalties, the city would not be able to regulate the removal of trees on homeowner properties. Trees would continue to be removed and not replaced.
- Most people do not want the city to tell them what they can do but this is a self-imposed regulation that is authorized by homeowners to help conserve trees. It provides homeowners with a voice and a process for regulating their tree canopy cover.
- If a tree needs to be removed, permits would be submitted to the city and approval would be timely as opposed to building permits that can take much more time. The Forest Hills Committee may be able to submit and regulate any permits for a homeowner and the committee will have a strong voice in working with the city and in managing the NFO.
- Participation in an NFO can include the entire neighborhood or just ten or more homes that are grouped together. If a small group such as a block of homes enacts an NFO, its size can be expanded to other blocks in the future.

FAQ 1. What affect does a NFO have on individual property value?

Most real estate experts agree that homes with trees are generally preferred to homes without trees and can sell faster and for higher prices. Trees can add value to a home in a number of ways, including:

Curb appeal: Trees can make a property feel more elegant and park-like. According to PNW Research Station, a tree in front of a house can increase the home's sales price by an average of \$7,130. Michigan University found that a well-kept landscape with trees can increase a home's value by 6–11%.

Energy efficiency: Trees can help reduce cooling costs in the summer and retain warmth in the winter.

Noise reduction: Trees can provide greater privacy and reduce neighborhood noise.

Air quality: Trees can help cleanse the air of pollutants and particles that cause harm.

FAQ 2. Which species of trees are protected by an NFO?

PROTECTED TREE means:

(A) a tree that has a **caliper of eight inches or more** and is **NOT** one of the following trees:

- *Acer saccharinum* (Silver Maple).
- *Ailanthus altissima* (Tree of Heaven).
- *Albizia julibrissen* (Mimosa or Silktree).
- *Celtis occidentalis/laevigata* (Hackberry or Sugarberry).
- *Fraxinus velutina* (Arizona Ash).
- *Juniperus virginiana* (Eastern Red Cedar) [unless protected under subparagraph (B).]
- *Maclura pomifera* [female only] (Bois d'Arc or Horseapple).
- *Melia azedarach* (Chinaberry).
- *Prosopis glandulosa* (Mesquite) [unless protected under subparagraph (B).]
- *Salix nigra* (Black Willow).
- *Sabium sebiferum* (Chinese Tallow).
- *Ulmus pumila* (Siberian Elm).

(B) an Eastern Red Cedar (*Juniperus virginiana*) or Mesquite (*Prosopis glandulosa*) tree that has a caliper of eight inches or more and the trunk is located:

(i) in, or within 120 feet of the boundary of: a floodplain [as defined in Article V]; a wetland area [as defined in federal environmental regulations]; or an escarpment zone [as defined in Article V]; or

(ii) within 50 feet of a natural channel setback line [as defined in Article V].

(C) an Eastern Red Cedar (*Juniperus virginiana*) or Mesquite (*Prosopis glandulosa*) tree that has a caliper of at least 12 inches; or

(D) a tree that was planted as a replacement tree.

FAQ 3. What are the limitations on what can be done with a tree protected by a NFO?

The NFO discourages removing or seriously injuring a PROTECTED TREE.

To REMOVE OR SERIOUSLY INJURE means an intentional or negligent action that will more likely than not cause a tree to decline and die within five years of the act. Actions that constitute removing or seriously injuring a tree include, but are not limited to: cutting down a tree; excessively pruning or topping a tree; compacting the soil above the root system of a tree; changing the natural grade above the root system of a tree; damaging the root system or the trunk of a tree (such as by operating machinery near, or by clearing or grading the area around, the trunk of a tree); failing to repair an injury to a tree from fire or other causes, which results in or permits tree infections or pest infestations into or on the tree; applying herbicidal or other lethal chemicals; and placing nonpermeable pavement over the root system of a tree.

FAQ 4. Who is responsible for reporting the potential unauthorized removal of an NFO-protected tree?

Any resident can report suspected NFO violations to the City of Dallas arborist office.

FAQ 5. Are trees in a city-owned parkway adjacent to an NFO protected?

No, the deed restriction imposed by a NFO apply only within the property boundary.

FAQ 6. Are trees in a NFO protected from excessive pruning or topping by ONCOR or other utility contractors?

No, trees located within 20 feet on center of the nearest overhead public electric line are not protected by an NFO.

FAQ 7. If a homeowner removes trees protected by a NFO and subsequently sells the property prior to enforcement actions being taken, who is responsible for the replacement or mitigation actions? The person purchasing the property would be responsible for mitigation. Keep in mind that it would be hard to sell a property without telling the purchaser about the NFO as there is a deed restriction on the property. If they did sell it without telling the purchaser, there could be legal consequences.

FAQ 8. Is an NFO revocable? It can be revoked if the property owners as a group petition the city to remove it and the City Council approves the request.

FAQ 9. Does an NFO need renewal? No, it does not need to be renewed as it is a permanent deed restriction.

FAQ 10. How many residents need to agree to be part of the NFO either in a Block or the entire neighborhood? If the NFO only covers the front easement and front yard, it requires 60% of the homeowners to approve. If it covers the front, side yard and back yard, it requires 70% of the homeowners to approve.

FAQ 11. Does the NFO run with this land if the previous Owner has agreed to the NFO prior to selling? Yes. It is a deed restriction that stays with the property when it is sold.

FAQ 12. What can be done with an NFO to stipulate or encourage new tree planting? Some tree planting is required as noted previously. If homeowners have a city easement in the front yards or the association wants to plant trees in medians, free trees are available from the city's reforestation fund. The association could also have a tree planting initiative and work with a contractor to plant many trees at once, which could reduce the cost.

FAQ 13. Are there other NFO`s around the nation that can be reviewed? No. The effort to develop the NFO started in Dallas when city officials were asked if something like a historic district designation could be established to help protect trees. The answer was that it could be possible with a city-wide overlay. Research shows it has never been done around the nation and Dallas is the first to try it.

Due to the need to update the tree ordinance, meetings/negotiations with city officials, developers and the Dallas Homebuilders Association took place over 11 years and the updated ordinance was passed by the City Council in 2017. As part of the negotiations, all parties involved agreed to support the NFO ordinance, which was passed by the City Council in 2018.