



LOCAL OVERREGULATION: TREE-CUTTING ORDINANCES

“Few things are more important in Texas than private property rights. Yet some cities are telling citizens that you don’t own some of the things on your property that you have bought and purchased and owned for a long time. Things like trees. This is a form of collectivism.” ~[Texas Governor Greg Abbott](#)

Facts

- Approximately 50 Texas cities—including major population centers like Austin, Dallas, Houston, and San Antonio—have adopted burdensome regulations that restrict or prohibit a property owner’s right to prune or remove trees on their land, according to the [Texas Chapter of the International Society of Arboriculture](#).
- Trees are regulated differently compared to other plants on an owner’s property. Whereas picking flowers or vegetation would not generally require government permission, in many cities cutting down a tree for firewood without express government sanction would violate the law. For example, the city of Austin requires private landowners to request and receive the city’s permission to remove any tree with a trunk diameter of 19 inches or more. Further, Austin forbids the removal of “heritage trees”—trees of particular species with diameters of 24 inches or more—unless the landowner can prove to the city that the tree is diseased, a fire safety risk, or that the tree prevents reasonable development of the land.
- It is generally recognized that private property rights include ownership of the natural resources contained with the land. As John Locke states in the *Second Treatise of Civil Government*: “As much land as a man tills, plants, improves, cultivates, and can use the product of, so much is his property.”
- Article I, Section 17 of the Texas Constitution states: “no person’s property shall be taken, damaged or destroyed for or applied to public use without adequate compensation being made.”

Arguments

There’s a growing trend among Texas cities to impose unreasonable regulations that either prohibit property owners from cutting down their trees or require the property owner to first make payments to the municipality, sometimes in excess of the value of the tree.

These intrusive regulations are sometimes justified on the basis of communal benefits. For example, proponents may argue that the presence of trees can improve property values for the neighborhood as a whole; or that trees mitigate flooding impacts, improve air quality, and reduce stormwater runoff; or that trees have some aesthetic or sentimental value.

“Municipal tree-cutting ordinances are more than a nuisance; they effectively seize the property impacted by the regulation. If a landowner wishes to remove a tree in order to construct an improvement—such as a backyard swing set—and cannot, that area has been taken by the government without any compensation.”

~ Rob Henneke and James Quintero in the [Austin American-Statesman](#)

Though these arguments have some appeal, this high-minded rhetoric ignores the simple fact that trees are not a collective resource. They are real property owned by the landowner. As such, it is unjust for government to coerce a private actor to provide a social benefit without compensation. If public benefits are being provided by trees on private property, then the public should pay for these benefits. Otherwise, property owners should be free to develop their land as they see fit—including trimming and removing all trees and timber.

Solutions

To better protect landowners and strengthen private property rights, the Texas Legislature should:

Prohibit local governments from preventing the trimming or removal of trees or timber located on the landowner’s property.