

ARTICLE 28.06 LANDSCAPING AND TREE PRESERVATION

DIVISION 1. GENERALLY

Sec. 28.06.001. Title.

This article shall be commonly cited as the landscape ordinance.

Sec. 28.06.002. Purpose.

- (a) Generally. The purpose of this article is to provide for the preservation of native trees, prevent the clear-cutting of land, and provide for minimum landscaping and screening requirements, in recognition that trees, landscaping, screening, and buffering protect the health and welfare of the community, while addressing the water conservation and drainage issues particular to the Hill Country region. The purpose of this article is also to enhance the community's ecological, environmental, and aesthetic qualities.
- (b) Health, welfare, and general well-being. Preserving and improving the natural environment, and maintaining a working ecological balance, are of increasing concern to the city. The fact that the proper use of landscape elements can contribute to the processes of air purification, oxygen regeneration, water absorption, water purification, and noise, glare, and heat abatement as well as the preservation of the community's aesthetic qualities indicates that the use of landscape elements is of benefit to the health, welfare, and general well-being of the community, and therefore it is proper that the appropriate use of such elements be required.
- (c) Water conservation and drainage. The city experiences frequent droughts, due in part to a landscape and is characterized by thin-soiled rock formations; therefore, it is the purpose of this article to encourage the use of drought-resistant vegetation and landscaping that minimizes runoff and erosion.

Sec. 28.06.003. Scope.

This article applies to all ~~commercial~~ property within the incorporated municipal boundaries (i.e., city limits) ~~for which site development plan or construction plan approval by the city is required under the city's Code of Ordinances.~~ This article applies to actions taken after the date of enactment.

In addition, this article applies to all development requiring site plan approval subject to zoning requirements, including:

- (a) All residentially zoned property for which a subdivision is accepted by the City after the effective date of this ordinance;

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- (b) All industrial, commercial, office, multi-family, institutional development, governmental facilities, and schools (including all new construction and any additions greater than 2500 square feet), and construction of a new parking lot or expansion of an existing parking lot; and
 - (c) All properties going through redevelopment through extension, reconstruction, resurfacing, or structural alteration must come into compliance. Site plan approval shall be conditioned on compliance with this article.
 - (d) All property as it relates to the removal of a Heritage Tree and Oak Wilt requirements.

Sec. 28.06.004. Definitions.

- (a) Rules of interpretation. Words and phrases used in this article shall have the meanings set forth in this section. Terms that are not defined below, but are defined elsewhere in the Code of Ordinances, shall be given the meanings set forth in the code. Words and phrases not defined in the Code of Ordinances shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense, words in the plural number shall include the singular number (and vice versa), and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.
- (b) Specific definitions.

ANSI. The American National Standards Institute (ANSI) is a private, non-profit organization that administers and coordinates the U.S. voluntary standards and conformity assessment system.

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Caliper inch. A unit of measure for tree size taken six inches above the ground level for field grown stock, and six inches above the soil line for container grown stock, and six inches above the root flare for bare root plants, up to and including the four-inch caliper size.

City administrator. The chief administrative officer of the city. The term shall also include the deputy city administrator.

City council. The governing body of the city.

City of Austin Environmental Criteria Manual. The document promulgated by the City of Austin, which is commonly used throughout the region and is widely regarded as the standard in the development community, as may be amended.

City of Austin Grow Green Guide. The document promulgated in part by the City of Austin, entitled "Native and Adapted Landscape Plants: An Earthwise Guide for Central Texas," as may be amended.

City permit. A city license, certificate, approval, registration, consent, permit, or other form of authorization required by a city ordinance, regulation, or rule in order to develop, construct, and operate the improvements on the property.

Code. The Code of Ordinances enacted by the city, as may be amended from time to time.

Commercial land use. All activities and operations except for one- and two-family residences occupied by individual(s) claiming the dwelling as their homestead.

Critical root zone. The circular area surrounding a tree trunk, established as a distance equal to one foot of radial distance for every inch of caliper size or tree DBH, whichever is appropriate.

Development. The construction or placement of any buildings, utilities, access, roads or other structures, excavation, mining, dredging, grading, filling, clearing or removing vegetation, or the deposit of refuse, waste or fill.

DBH (diameter at breast height). The unit of measure for tree size once over four inch (4") caliper. DBH is the tree trunk diameter of an existing tree measured in inches at a height of 4.5 feet above the ground. If a tree splits into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point beneath the split.

Designated Protected tree. Any of the following:

- (1) A hardwood tree having a trunk of eight inches in caliper or greater measured at DBH;
- (2) A multi-trunked hardwood tree having a total trunk DBH of 30 inches or more (not counting trunks less than eight inches in diameter); or
- (3) A cluster of hardwood trees within a ten-foot radius circle having a total trunk DBH of 40 inches or more (not counting trunks less than eight inches in diameter).

Escrow. A deposit of a cash bond with the city in accordance with this article.

Extreme drought classification. A mandatory drought response issued by the local water supply jurisdiction outlining conditions that include limits to water available for landscape irrigation making it impractical to establish new landscaping by irrigation. A D3 classification of drought intensity provided by the National Drought Mitigation Center, with D1 being the least intense and D4 being the most intense. D3 classification, extreme drought areas, result in major crop/pasture losses and widespread water shortages or restrictions. The National Drought Mitigation Center must be consulted to determine the classification for the region.

Heritage tree. A protected tree having a trunk of 24.0" or greater caliper in inches measured at DBH.

Impervious cover. Buildings, parking areas, roads, and other impermeable man-made improvements covering the natural land surface that prevent infiltration. For further clarification on what is considered impervious cover, refer to the city's water quality protection ordinance (article 10.03).

Landscape architect. One whose profession is the decorative and functional alteration and planting of grounds, especially at or around a building site.

Landscaping. Consists of introduced vegetation, as well as related improvements to a lot, including, but not limited to, forming and berming, irrigation systems, landscape subsurface drainage systems, site furnishings, and nonstructural retaining walls.

Legacy tree. A protected tree having a trunk of 12.0" -23.9" caliper in inches measured at DBH.

Natural area. An area where the naturally grown landscaping is left primarily undisturbed, except for the removal of poison ivy, greenbrier, and similar vegetation, oak wilt removal and/or prevention measures, and allowing for maintenance of the trees to maintain vigorous growth.

Owner. A person with legal control over property in question.

Person. A human individual, corporation, agency, unincorporated association, partnership, or sole proprietorship, or other legal entity.

Residential Use. One- and two-family structures, occupied by individuals claiming the residence as their homestead.

Responsible party. The owner/operator of the business on which the site development permit is being sought or where the protected tree or landscaping is required; the owner of the property upon which the tree is located or landscaping is required; the person who performs construction or landscaping on a lot, contracts with or directs a person to accomplish the construction.

Standard tree. A protected tree having a trunk of 8.0" -11.9" caliper in inches measured at DBH.

TCEQ. The state commission on environmental quality, or its successor agency.

Tree Board. A group of persons appointed by the City of Dripping Springs City Council having advisory and recommendation powers accountable for the decisions impacting community trees located within the City limits and ETJ.

Tree caliper. Caliper is the diameter of the trunk, measured at 6 inches above the soil line on the uphill side, and used for trees that measure 4" caliper or smaller. Over 4" caliper, trees are measured in DBH.

Sec. 28.06.005. Applicability.

For tree preservation purposes, this article applies to the three types of development stated above, and also includes:

- (a) Any grading, filling or clearing of land;
- (b) Chemical or biological development near or around tree(s) that may result in the death or destruction of any tree(s) as defined;
- (c) Trenching or excavating that may damage or destroy protected trees as defined;
- (d) All governmental development shall comply with the tree preservation plan review procedure regardless of the zoning district in which they are located unless the development is utility related or in street R.O.W.; and
- (e) Detached and attached dwelling lots platted after the effective date of this ordinance.
- (f) Oak Wilt requirements and the prohibition of removal of Heritage Trees apply to all lots including tree removal and care on lots by property owners residing on the lot as the owner's homestead. All other tree preservation requirements are inapplicable to work done on a lot by a property owner who resides on the lot as the owner's homestead.

This article applies to all new commercial development requiring site plan approval subject to zoning requirements. All properties going through redevelopment through extension,

~~reconstruction, resurfacing, or structural alteration must come into compliance. Site plan approval shall be conditioned on compliance with this article.~~

Sec. 28.06.006. Landscaping fund.

A fund is hereby created in which any cash-in-lieu paid to the city pursuant to the mandates of this article shall be deposited. The fund may be drawn upon by the city to implement landscaping improvements on city land and city controlled rights-of-way or to fund landscape project grants that serve a public city purpose.

Sec. 28.06.007. Damaging or removing trees.

No person shall damage or remove trees in violation of this article. "Damage" in this case includes, but is not limited to, altering or maintaining trees in a manner inconsistent with the standards published in American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations". A violation of this section is an offense under section 28.06.009.

Sec. 28.06.008. Violations.

~~It shall be unlawful for any person to violate this article.~~

Should the responsible party or parties after receiving written notice from the planning department, building official, or code enforcement official of a violation of this chapter fails to correct a violation of this chapter within the time stated in the written notice, the code enforcement official may also take necessary action to file a lien against the property to recover the cost of remediation or removal of diseased or prohibited trees if the costs are not paid by the property owner within 15 days after the property owner is billed. The code enforcement official may also pursue criminal penalties and/or civil action as provided for under this article and state law.

Sec. 28.06.009. ~~Enforcement; penalties.~~ Offense

- (a) A person who violates, causes, allows or permits a violation a section of this chapter designated as an offense commits a misdemeanor punishable by a fine not exceeding \$2000.00.
- (b) Each violation of this chapter designated as an offense constitutes a separate offense.
- (c) No culpable mental state is required to prove an offense under this chapter if the offense involves:
 - (1) removal or damage to trees in violation of this chapter including clearing, grubbing, or other heavy instruction over the critical root zone of a protected tree;
 - (2) death of a protected tree outside of-but adjacent to-areas of disturbance by construction;
- (d) Violations:
 - (1) Section 28.06.051. Street Trees.
 - (2) Section 28.06.052. Landscape Buffers.

(3) Section 28.06.053. Landscape Material.

(4) Section 28.06.055(g). Paving over Critical Root Zone.

(5) Section 28.06.057. Maintenance Requirements.

(6) Section 28.06.059. Tree Preservation.

(7) Section 28.06.063 Oak Wilt Management.

- (a) ~~Compliance.~~ Violators of this article will be required to come into compliance within 60 days, unless a variance has been approved by the city. Compliance with this article may be grounds for withholding of other related pending permits for the project by the city.
- (b) ~~Enforcement.~~ The city shall have the power to administer and enforce the provisions of this article as may be required by governing law. Any person violating any provision of this article is subject to a stop work order, suit for injunctive relief, and/or prosecution for criminal violations. Any violation of this article is hereby declared to be a nuisance. Any violation of this article may serve as grounds to withhold or delay issuance of other permits and revocation of a certificate of occupancy.
- (c) ~~Criminal penalty.~~ Any person violating any provision of this article shall, upon conviction, be fined a sum not exceeding \$2,000.00 to be deposited in the landscaping fund. Each day that a provision of this article is violated shall constitute a separate offense. An offense under this article is a misdemeanor.
- (d) ~~Civil remedies.~~ Nothing in this article shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this article and to seek remedies as allowed by law, including but not limited to the following:
- (1) ~~Injunctive relief.~~ Injunctive relief to prevent specific conduct that violates this article or to require specific conduct that is necessary for compliance with this article;
 - (2) ~~Civil penalty.~~ A civil penalty up to \$500.00 a day to be deposited in the landscaping fund, when it is shown that the defendant was actually notified of the provisions of this article and after receiving notice committed acts in violation of this article or failed to take action necessary for compliance with this article, and other available relief; and
 - (3) ~~Stop work order.~~ In the event work is not being performed in accordance with this article, the city shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.

Sec. 28.06.010. - Liability.

The provisions of this chapter shall not be construed as relieving or limiting in any way the responsibility or liability of any person that damages or removes any tree, from personal injury or property damage resulting from the damage or removal of the tree, or resulting from the negligence or willful acts of such person in the construction or maintenance of any property resulting in the damage or removal of a tree or the damage or removal of any tree, or from the damage caused by the failure to remediate oak wilt or planting of a prohibited tree. Nor shall it be construed as imposing upon the city or its officers, employees or agents any responsibility or

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liability by reason of the approval of any site development permit, subdivision, or construction under these provisions.

Sec. 28.06.011. - Civil remedies.

Nothing in this chapter shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this chapter and to seek remedies as allowed by law, including, but not limited to the following:

- (1) Injunctive relief to prevent specific conduct that violates the chapter or to require specific conduct that is necessary for compliance with the chapter, including remediation of oak wilt or protection of trees where such remediation or protection is required by this chapter at the expense of the responsible party;
- (2) A civil penalty up to \$1,000.00 a day when it is shown that the defendant was notified of the provisions of the chapter and after receiving notice committed acts in violation of the chapter or failed to take action necessary for compliance with the chapter; and other available relief.

Secs. 28.06.012—28.06.050. Reserved.

DIVISION 2. STANDARDS

Sec. 28.06.051. Street trees.

- (a) Residential street tree requirements . The list below sets forth the minimum number of trees, per lot, that must be planted prior to the issuance of a certificate of occupancy permit for the dwelling. Trees shall be in the front of a residential lot, including at least one required tree planted in the front yard. Three small trees/large shrubs may be substituted for one required tree. The following minimum standards apply:

Zoning	No. of Required Trees
SF-1	0 2
SF-2	2
SF-3	2
SF-4	2
SF-5	1 per unit
MF	1 per unit
MH	1

- (b) Nonresidential street tree requirements . At least one required tree, shall be planted adjacent to or near the street right-of-way for each 25 feet, or fraction thereof, of linear street frontage. Trees shall be planted between the street right-of-way and any horizontal and vertical improvements. The required number of trees need not be placed uniformly, but may be clustered in groups.

- (c) Trees planted shall be a minimum ~~four~~ two and a half inch caliper ~~DBH~~, staked, and wrapped. Small trees/large shrubs trees shall be a minimum ~~two~~ one and a half inch caliper ~~DBH~~, staked, and wrapped.
- (d) Trees with deep roots may be planted in the area between the sidewalk and road if approved by the city administrator. Trees of species whose roots are known to cause damage to public roadways or other public works are prohibited.
- (e) Trees are not allowed to be planted within public water, wastewater, telecommunication, or electrical easements.
- (f) Trees in place at the time of construction and preserved on the lot, may count towards the required planting of trees if the preserved trees meet all of the requirements listed herein and are not located in an easement or right-of-way.
- (g) A violation of this section is an offense under section 28.06.009.

Sec. 28.06.052. Landscape buffers.

- (a) Landscape buffer planting requirements .
 - (1) All plant material shall be of native or adapted species.
 - (2) All new proposed shade trees shall be a minimum of ~~four~~ two and a half inches in diameter-caliper.
 - (3) All proposed ornamental trees shall be a minimum of ~~two~~ one and a half inches in diameter caliper.
 - (4) All large shrubs shall be a minimum of five-gallon container size and small shrubs/groundcovers a minimum of one-gallon container size.
- (b) Landscape buffer spacing requirements . The following landscape buffer spacing requirements shall apply to all designated landscape buffers:
 - (1) Shade trees (such as Live Oak or Cedar Elm) . One per 50 feet of buffer frontage.
 - (2) Ornamental trees (such as Crape Myrtle or Desert Willow) . One per 25 feet of buffer frontage.
 - (3) Large shrubs, five-gallon (such as Wax Myrtle, DW Yaupon, or Agarita) . One per six feet of buffer frontage.
 - (4) Small shrubs/groundcovers, one-gallon (such as Lantana or Liriope) . One per three feet of buffer frontage.
- (c) Landscape buffer widths . The following landscape buffer width requirements shall apply to all designated landscape buffers and shall be measured from the edge of the right-of-way:

	At Arterial Roadways	At Collector Roadways
AG	0	0
SF-1	0 <u>35 feet</u>	0 <u>25 feet</u>
SF-2	35 feet	25 feet

SF-3	40 feet	30 feet
SF-4	50 feet	40 feet
SF-5	40 feet	30 feet
MF	50 feet	40 feet
MH	35 feet	25 feet
O	25 feet	25 feet
LR	25 feet	25 feet
GR	25 feet	25 feet
CS	25 feet	25 feet
I	50 feet	50 feet
H	25 feet	25 feet
GUI	25 feet	25 feet
PR	25 feet	25 feet
PP	25 feet	25 feet
PD	Varies	Varies

(d) Landscape buffer vegetation . The following landscape buffer vegetation requirements shall apply to all designated landscape buffers:

This buffer area shall contain either native vegetation in the form of trees and bushes left in their natural, undisturbed condition, or, if no such native vegetation exists, shall consist of landscaping in conformance with this article. If the area consists of landscaped plantings, maintenance of such plantings shall be the sole responsibility of the developer or the homeowners' or property owners' association.

(e) A violation of this section is an offense under section 28.06.009.

Sec. 28.06.053. Landscape material.

All trees, plants, and vegetation shall comply with the City of Austin "Grow Green" recommended plant guide. Invasive plants in this guide are specifically prohibited. A violation of this section is an offense under section 28.06.009.

Sec. 28.06.054. Landscape plan and tree survey submittal.

A landscape plan and tree survey shall be submitted to the city with the proposed site development plans and construction plans. The landscape plan shall comply with the landscape requirements. The landscape plan shall be signed and sealed by a landscape architect licensed by the state. The existing tree survey should be signed and sealed by a surveyor licensed by the state.

Sec. 28.06.055. Parking area landscaping.

- (a) Parking lots and all vehicular parking and maneuvering areas, excluding driveways behind buildings, shall contain areas constructed, planted, and maintained as landscaped islands, peninsulas, or medians.
- (b) The minimum total area in landscaped islands, peninsulas, or medians in the parking lots in front of buildings shall be 90 square feet for each 12 parking spaces, having a minimum width of nine (9) feet.
- (c) One tree is required for every six parking spaces. Tree preservation is encouraged for parking areas defined as back of curb and a nine (9) foot buffer around that back of curb, thus one existing tree that is at four inches DBH shall count for two new trees.
- (d) No parking space shall be located further than 50 feet from a landscaped island, peninsula, median, or tree. They shall be located evenly through the parking areas; however, the location of landscaped islands, peninsulas, and medians may be adjusted to accommodate existing trees or other natural features.
- (e) Landscape terminal islands (end islands) shall be located at the end of all parking modules in a configuration to allow for turning radii of intersecting aisles to protect parked vehicles, provide for visibility, confine moving traffic to aisles and driveways, and provide space for landscaping. Medium and tall shrubs are prohibited on internal islands to maintain visibility.
- (f) All landscaped islands shall have curbs except when utilizing low impact development techniques to capture and utilize runoff for irrigation purposes.
- (g) Paving over the critical root zone is discouraged and must be approved by the city ~~administrator~~ tree board. All approved paving shall be porous pavement to allow water and air exchange. A violation of this subsection is an offense under section 28.06.009.

Sec. 28.06.056. Screening of dumpsters and building service equipment.

- (a) For outdoor condensers, utility huts, and other building service equipment (other than a rooftop), such equipment shall be reasonably screened from view on all sides using a masonry wall and vegetative screen using at least two varieties of plant material from the "grow green" plant guide, that, at maturity, are at least the height of the equipment to be screened.
- (b) All refuse and/or recycling containers shall be reasonably screened with landscaping from public view and the view of adjoining properties.
- (c) The opening for removal of the dumpster for collection shall be a minimum of 12 feet to allow proper service access. An additional ten feet in width is required for every additional dumpster.
- (d) All durable materials used in constructing the dumpster screening masonry wall system shall be consistent with and complement the primary structure.

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- (e) The orientation of the dumpster opening shall not face the street or public sidewalk unless approved by the city administrator.

Sec. 28.06.057. Maintenance requirements.

The owner shall be responsible for (unless otherwise specified herein):

- (1) Planting and maintaining trees in a manner which conforms to the American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations" and following all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.
- (2) Regular maintenance of all required landscaped areas and plant materials in a vigorous and healthy condition, free from diseases, pests, weeds, and litter. This maintenance shall include weeding, watering, fertilization, pruning, mowing, edging, mulching, or other necessary maintenance in accordance with generally accepted horticultural practice;
- (2) The repair or replacement of required landscape structures (walls, fences, etc.) to a structurally sound condition;
- (3) The regular maintenance, repair, or replacement, where necessary, of any screening or buffering;
- (4) Replacing planted trees if they die or become diseased beyond repair within five years after planting; and
- (5) Repairing damage to landscaped areas, structures, screening, buffering, or trees as a result of ingress or egress from site easements by authorized or unauthorized parties.
- (6) A violation of this section is an offense under section 28.06.009.

Sec. 28.06.058. Integrated pest management.

An integrated pest management plan (IPM) shall be submitted with the site plan. The IPM shall include the soil analysis, fertilizer ratios, brands, and types of fertilization application methods to be used. Fertilizers must be phosphate-free.

Sec. 28.06.059. Tree preservation.

- (a) A grading and tree survey shall be submitted with the site development plans and construction plans.
- (b) The tree survey shall include all existing, live, healthy protected trees with an eight-inch DBH in diameter and larger. The survey shall indicate the size (DBH) and species of tree. Trees observed to be distressed will be indicated with an asterisk on the tree list. Trees shall be represented by their critical root zone, meaning circles using the formula of one foot of radius for every one inch of trunk diameter. All required trees (both on and off the subject property) with critical root zones that intersect the limit(s) of disturbance with the project shall be represented. Unbroken circles indicate trees that are to remain. Dashed circles

indicate trees that are to be removed (including trees identified to be distressed). Non-native trees or other exempt tree species as listed above shall be omitted from the tree survey.

(c) Protected trees are defined as follows:

(1) Protected Trees:

(A) Heritage Trees;

(B) Legacy Trees;

(C) Standard Trees.

(2) Hardwood trees defined in Sec. 28.06.004 “Definitions”

(3) The following species are considered significant trees with at least one (1) trunk being equal or greater than the respective size (DBH):

- i. Ashe Juniper (Juniperus ashei) - ten (10) inch DBH;
- ii. Huisache (Acacia farnesiana) - ten (10) inch DBH;
- iii. Mesquite (Prosopis glandulosa) - ten (10) inch DBH;
- iv. Arizona Ash (Fraxinus velutina) - ten (10) inch DBH;
- v. Hackberry (Celtis spp.) - ten (10) inch DBH;
- vi. Texas Persimmon (Diospyros texana) - five (5) inch DBH;
- vii. Texas Redbud (var. texensis) - five (5) inch DBH;
- viii. Texas Mountain Laurel (Sophora secundiflora) - five (5) inch DBH;
- ix. Condalia (Condalia hookeri) - five (5) inch DBH;
- x. Possum Haw (Ilex decidua - in floodplain only) - five (5) inch DBH;
- xi. Hawthorne (crataegus texana) - five (5) inch.

(4) Heritage Trees. A Heritage tree means a tree of twenty-four (24) inches or greater DBH for all tree species except the following species are heritage with at least one (1) trunk being eight (8) inches or greater DBH (the value of the eight (8) inches or greater trunk is the value given to these small tree species):

- i. Texas Persimmon (Diospyros texana);
- ii. Texas Redbud (var. texensis);
- iii. Texas Mountain Laurel (Sophora secundiflora);
- iv. Condalia (Condalia hookeri);
- v. Possum Haw (Ilex decidua - in floodplain only);
- vi. Hawthorne (crataegus texana).

(5) Non-native Trees. Non-native invasive tree species are not protected and will be omitted from the tree survey. Non-native invasive tree species means the following tree species:

- i. Chinese Pistache (Pistacia chinensis);
- ii. Chinaberry (Melia azedarach);
- iii. Chinese Tallow (Sapium sebiferum);
- iv. Tree of Heaven (Ailanthus altissima);
- v. Salt Cedar (Tamerix species).
- vi. Japanese Ligustrum (Ligustrum japonicum).
- vi. Japanese Ligustrum (Ligustrum japonicum);
- vii. Nandina (Nandina domestica);
- viii. Paper Mulberry (Broussonetia papyrifera)

(d) Minimum Tree Preservation Requirements

(1) No protected tree shall be removed from any real property within the City of Dripping Springs without following the provisions as stated below.

(2) Preservation requirements that are set as percentage values shall be percentage of the trees, not percentage of the sum of all diameter inches.

(3) Tree Preservation by Land Use:

(A) Commercial, Industrial, and Multi-family – A minimum of 40% of Standard trees and Legacy trees, exclusive of Heritage trees, shall be preserved on a lot. Heritage trees within clearing and installation for infrastructure (roads, utilities, etc.) shall not be removed without a waiver from the tree board and mitigation.

(B) Subdivision Development of Single-family and other residentially zoned areas – A minimum of 35% of Standard trees and Legacy trees, exclusive of clearing and installation for infrastructure (roads, utilities, etc.) and lot lines is allowed. Heritage trees within clearing and installation for infrastructure (roads, utilities, etc.) shall not be removed without a waiver from the tree board and mitigation.

(C) A property owner may remove any tree, other than a Heritage Tree, on property owned that is the property owner's homestead on which the owner resides.

(D) Steep slopes –Protected trees shall not be removed from a steep slope area.

(E) All Heritage trees on any lot shall be preserved unless the tree falls under an exception or a waiver to remove the tree is granted by the tree board. Heritage trees within clearing and installation for infrastructure (roads, utilities, etc.) shall not be removed without a waiver from the tree board and mitigation.

(F) Tree preservation in Historic Districts shall comply with both this Chapter and the code and implementation manuals for the districts. When in conflict, the stricter requirement applies.

(4) Tree preservation in the Water Quality Protection Zones.

(A) No trees shall be removed without following the procedures set forth for Water Quality Protection Zones. The minimum percentage of trees to be preserved shall be by tree type, as follows:

(B) Drainageway Water Quality Buffer Zones. The following shall apply unless tree removal is specifically approved by the tree board for allowable development in the WQBZ as defined by Water Quality Ordinance [22.05.017(d)]

(i) Standard trees – 100% shall be preserved

(ii) Legacy trees – 100% shall be preserved

(iii) Heritage trees – 100% shall be preserved

(e) A Tree Preservation Plan shall be submitted with the site plan. Unbroken circles indicate trees that are to remain. Dashed circles indicate trees that are to be removed (including trees identified to be distressed).

(f) Healthy designated class I and II trees (as defined by the City of Austin Environmental Criteria Manual) that require removal to accommodate the development shall be replaced at a ratio of 1:1, or cash-in-lieu may be paid to the city, the amount equal to the cost of nursery stock required to replace the caliper amounts lost and the cost of installation on a per-unit basis, not to exceed \$100.00 per caliper inch or \$6,000.00 per acre (prorated for sites of more or less than one acre) for the entire site. Trees identified as distressed shall not be included in tree preservation requirements evaluation.

(g) Pre- and post-construction fertilization is required for existing trees that will be or have been disturbed by construction activities, including disturbance of the critical root zone. Fertilizers must be phosphate-free.

(h) During construction, take measures to protect trees, including rigid fencing, shielding, and signage, as necessary. Rigid fencing shall be placed with a radius of at least ten feet from the trunk or at the critical root zone, whichever is greater, unless property lines or other features prohibit a complete radius. Rigid fencing shall consist of wood, chainlink, or other solid material approved by the city administrator. Stakes shall be no more than six feet apart and at least one and one-half deep into the ground. Rigid fencing shall be at least three feet in height.

(i) ~~The city administrator or designee~~ city inspector or designee shall inspect and approve installed tree protection before issuance of any permit to commence with any construction activity.

(h) Tree protection shall remain in place until final landscaping installation as approved by the city administrator or designee.

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- (i) Parking or storing of vehicles, equipment or materials allowed within the critical root zone is prohibited.
 - (j) Any activity that damages trees on adjacent lots is prohibited.
 - (k) A violation of this section is an offense under section 28.06.009.

Sec. 28.06.0591 Mitigation for Tree Removal.

- (a) Mitigation for all removed trees not covered by an exception is required. For all removed trees in accordance with tree preservation requirements or after a waiver is approved for removal in excess of the tree preservation requirements the inches (TC) required for mitigation will be determined using the approved tree survey or tree preservation plan. Legacy trees shown to be removed (beginning from largest to smallest (TC)) will be added to the preserved tree total until the preservation percentage is reached. The number of trees needed to meet the preservation requirement will be included in the mitigation calculation.
- (b) Protected trees which are removed shall be mitigated using any combination of the following:
 - (1) Preservation of existing trees >6 inches in DBH above minimum preservation requirements;
 - (2) Relocation of the removed tree onsite, mitigation is required for relocated trees if mortality occurs within 3-years of the relocation;
 - (3) Replacement by new Legacy tree species, or alternative native trees approved by the City Administrator or designee; and/or
 - (4) Payment of a fee in lieu of tree replacement.
 - (5) Mitigation cannot be accomplished by only using one of methods “a” thru “d” above. They must be used in combination.
- (c) The preservation of healthy Standard and Legacy trees on-site is encouraged and may be used as mitigation to offset the removal of Protected trees. The mitigating trees may be of any Legacy tree species with an aggregate TC in inches of the trees removed (1:1). Mitigating trees should be >6 inches in DBH, in good health, and clear of existing or proposed utility easements and overhead electric lines. Existing Heritage trees cannot be used to mitigate for the loss of Heritage trees.
- (d) Replacement trees are in addition to the minimum landscaping requirements as described in Section 28.06.051 through Section 28.06.057 of this document.
- (e) Replacement trees may be of any Legacy tree species or alternative approved indigenous tree with an aggregate TC in inches of the trees removed with ratio of (1:1) for Standard trees, (1.5:1) for Legacy trees and (3:1) for Heritage trees.
- (f) Replacement trees shall be a minimum of two and a half caliper inches measured 6 inches from ground level and a minimum height of 8 feet when planted.
- (g) When possible, replacement trees shall be planted on the same lot according to an approved Tree Preservation Plan. Replacement trees may be planted on another lot if approved by the tree board.
- (h) Biodiversity requirements for tree replacement

Commented [LM2]: This is confusing. Do they have to mitigate for any tree removal or removal in excess of the percentage limits?

(i) When replacing trees on site, or at a location approved by the tree board, no single tree species may account for more than 50% of the total required caliper inches to be replaced.
(ii) When more than 300 inches (TC) of replacement trees are required, a minimum of five (5) different approved tree species shall be used to fulfill the replacement requirements.

(i) Fee in lieu of replacement:

(i) If all or a portion of the required replacement trees will not be planted on-site or on a site approved by the tree board, payment of a fee in lieu of replacement shall be made, which shall be deposited into the City’s Tree Restoration Fund. The fee shall be determined as follows in the Table below:

(ii) As described in Texas Government Code Sec.212.905, a tree mitigation fee is not required for trees < 10 inches in DBH on a property that is an existing one-family or two-family dwelling that is the persons residence.

Table Mitigation methods for tree removal

<u>Tree Classification</u>	<u>Tree Diameter Removed (DBH)</u>	<u>Tree Planting: Aggregate TC in inches of trees removed</u>	<u>Mitigation Fee per inch (TC) of tree removed</u>
<u>Standard</u>	<u>8.0” -11.9”</u>	<u>1:1</u>	<u>\$50</u>
<u>Legacy</u>	<u>12.0” – 23.9”</u>	<u>1.5:1</u>	<u>\$100</u>
<u>Heritage</u>	<u>24.0” or greater</u>	<u>3:1</u>	<u>\$200</u>

* If it is necessary to convert diameter or caliper to TC when purchasing replacement trees, the cost shall be calculated as: TC = diameter (in) x 3.1415, where TC is total circumference (in).

(j) Tree Preservation Incentives. An individual may apply for, and subject to verification, shall receive incentives for tree preservation as follows:

(1) Parking Space Reduction. Upon application and verification by the city arborist, an individual shall be entitled to a reduction in the minimum parking requirements to help meet the minimum tree preservation requirements. For the purpose of providing an incentive, the said minimum parking requirements may be reduced by one (1) parking space for every four (4) diameter inches of trees that have been protected or mitigated on a site. The city arborist shall issue a certificate to the appropriate city department(s) confirming that a reduction has been earned under this section. Up to fifteen (15) percent of the required spaces may be waived, however, a waiver in excess of fifteen (15) percent of the required spaces must be approved by the director of planning and development services or the director’s designee, and no waiver may exceed thirty (30) percent of the required spaces. A waiver of up to fifty (50) percent of the minimum parking spaces required may be granted if the plan will result in the preservation of woodlands or significant stands of trees in a natural state in excess of

the minimum tree preservation requirements. If used, the incentive provided by this subsection shall control over any other conflicting provision of this article.

- (2) Sidewalks. Where the director of planning and development services determines that preservation of trees warrants the elimination, reduction in width, alternative routing, or modification to the sidewalk and curb requirements in accordance with the tree preservation standards, a waiver may be granted.
- (3) Tree Cluster(s). In order to emphasize the importance of preserving trees in a cluster during development, additional tree preservation credit will be given as follows:
 - (A) Cluster(s) of three (3) or more trees less than ten (10) feet apart without existing understory will be calculated at one hundred five (105) percent for each tree within the cluster with a minimum DBH size of two and one-half (2½) inches.
 - (B) Cluster(s) of three (3) or more trees less than ten (10) feet apart with existing understory will be calculated at one hundred fifteen (115) percent for each tree within the cluster with a minimum DBH size of two and one-half (2½) inches.
- (4) Landscape Credits. Landscape credits may be awarded as provided in section XXXX, above. Trees installed to meet the requirements of the landscape buffer section Section 28.06.051 through Section 28.06.057 may be used to meet the requirements of the final tree canopy section.
- (5) Understory. The tree board, may determine that the preservation of existing predevelopment native understory plants together with trees grouped in significant stands or native "natural" areas may result in a reduction of new tree plantings needed to meet the requirements of tree canopy in this chapter. Such areas may receive up to one and one-half (1.5) tree canopy credit. In addition, such areas can be used to meet the landscape requirements and/or an increase of credit given for elective points and/or the elimination of an irrigation system requirement.
- (6) Minimum Lot Size and Setbacks. The board of adjustment may approve a variance to the minimum lot size and setback requirements of the applicable zoning district for an individual lot or lots where the applicant demonstrates the following:
 - (A) Compliance with the minimum lot size or setback requirement is needed to preserve a significant tree or heritage tree; and
 - (B) If the tree permit application is pursuant to a proposed subdivision plat, the average lot size of the proposed subdivision will equal or exceed that of the applicable zoning district; and
 - (C) The public purpose involved in protecting the tree exceeds the public purpose of complying with minimum lot size or setback requirements; and
 - (D) The resulting lot sizes or setbacks do not violate the master plan or the applicable neighborhood plan.
- (7) State Certification in Lieu of Compliance. The city arborist shall assist those who wish to have a site certified under the Texas Parks and Wildlife, Texas Wildscape

Commented [LM3]: Is this a reference to a PDD?

Program in lieu of meeting city requirements in this division as long as twenty (20) percent of existing trees on-site are preserved.

Commented [LM4]: What kind of assistance? Is there a fee?

- (8) Energy Conservation Credit. Planted or preserved large canopy shade trees located on the western or southern exposures of a habitable building may receive additional tree canopy credit for final tree canopy cover requirements. The trees must be located a minimum of ten (10) feet but a maximum of thirty (30) feet in distance from the building. Tree canopy cover may be credited at one and one-half (1.5) times the existing or newly planted trees meeting the aforementioned specifications.
- (9) Woodland Canopy Cover Credit. Woodlands, as defined excluding regulatory floodplains, that are preserved beyond the minimum preservation requirements shall receive a tree canopy cover credit of one and one-half (1.5) times the area and two (2) times if the area joins with an abutting contiguous tree canopy area on the adjacent property. To receive credit, the adjoining properties must indicate tree save areas in perpetuity through subdivision platting or a dedicated conservation easement.
- (10) Significant Tree Canopy Credit. A canopy cover credit of one and one-half (1.5) times the tree canopy area of a significant tree preserved beyond the minimum preservation requirements may be counted toward meeting the final canopy coverage using the tree survey method only.
- (11) Heritage Tree Canopy Credit. A canopy cover credit of two (2) times the tree canopy area of a heritage tree preserved beyond the minimum preservation requirements may be counted toward meeting the final tree canopy coverage using the tree survey or tree stand delineation method. To use this credit when using the tree stand delineation method a heritage tree survey is required. The minimum root protection zone requirements shall be met to receive this credit. A heritage tree with a tree warranty does not receive two (2) times the tree canopy area credit.
- (12) Use of Landscaped Low Impact Development (LID) Practices. A canopy cover credit of one and one-half (1.5) times the existing canopy cover of trees shall be provided for areas where tree preservation is maintained in conjunction with LID practices such as the use of structured soils including infiltration trenches, bioswales, micro-bioretenion areas and where such locations receive appropriate amounts of stormwater runoff. To receive one and one-half (1.5) times credit, the landscaped LID must be approved by application of the standards.

Sec. 28.06.0592. Exceptions.

Exceptions: The following shall be exempt from the Tree Preservation requirements of Section 28.06.059:

- (a) Lots on which buildings were constructed prior to the adoption of this ordinance and subsequently damaged by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind, provided a Building Permit is issued for restoration within 12 months after the damage occurs and additional square footage is not proposed.

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- (b) Hazardous, diseased, dead or dying trees as determined by a tree survey and a letter from an ISA certified Texas Arborist.
 - (c) Trees causing physical damage to existing structures, drainageways, utility systems or facilities in the public right of way as determined by the city engineer or their designee.
 - (d) Protected trees damaged or destroyed by floods, fire, wind or other natural causes.
 - (e) The following exempted tree species; Hackberry, Sugarberry, Chinese Tallow, Eastern Red Cedar, Common Ashe Juniper < 10" DBH, Chinaberry, Mesquite, Huisache and Ligustrum.
 - (f) Trees or areas of tree canopy preventing the opening of reasonable and necessary vehicular traffic lanes in a street or alley.
 - (g) Trees or areas of tree canopy located in the clear site line area and impeding required sight distance, as defined by the Dripping Springs Technical Criteria Manual (DSTC) Chapter 28, Exhibit C, as determined by the city engineer.
 - (h) When undertaken in- and immediately adjacent to- the bounds of a public right-of way or dedicated public utility easement by an official government entity or their designee for public use, the installation of:
 - (1) roadways, bridges, culverts, and associated traffic facilities; and
 - (2) sidewalks and similar off-highway trails and passageways; and
 - (3) streets and passageway lighting; and
 - (4) surface and subsurface stormwater drainageways (where horizontal boring is not practicable); and
 - (5) subsurface potable water and wastewater utility infrastructure (where horizontal boring is not practicable); and
 - (6) roadway widening/creating on-street parking
 - (i) Trees identified by a certified arborist or forester as distressed shall not be included in tree preservation requirements evaluation.

Sec. 28.06.060. Irrigation requirements.

- (a) An irrigation plan is required as part of the site plan and will be prepared by a licensed irrigator (i.e., licensed landscape architect or engineer). The plan should include rain/freeze sensors on all controllers. The irrigation plan should provide drip irrigation in shrub beds where appropriate and bubblers on all trees.
- (b) Turf grass plantings may be Buffalo, Zoysia, or Bermuda. St. Augustine is expressly prohibited.
- (c) Landscaped areas must be mulched to reduce evaporation and preserve water.

Sec. 28.06.061. Drought conditions.

- (a) During extreme drought classifications for this region as determined by the National Drought Mitigation Center, the city administrator, or designee, may accept a fiscal deposit of the amount equal to the cost of purchasing and installing the trees and other required landscaping into the city's drought tree fund in lieu of the installation of trees and other landscaping required by this chapter for the issuance of a certificate of occupancy permit, or the city administrator may accept an escrow equal to the cost of purchasing and installing

the trees and other required landscaping. The city shall only accept the fiscal deposit or escrow if an erosion control plan consistent with section 28.04.016 of this code has been reviewed and accepted by the city administrator. Failure to maintain and adhere to an approved erosion control plan during periods of extreme drought classification shall be deemed a violation and the fines and penalties under section 28.06.009 of this article shall apply.

- (b) Persons requesting that the city accept a fiscal deposit in lieu shall provide the city with written documentation from an entity that sells trees and landscaping the cost of purchasing and installing the trees and other landscaping required by this chapter.
- (c) If no cost for the installation of trees and landscaping required by this chapter is provided to the city, the city shall require 66 percent of the cost of the trees and landscaping to be paid as the installation cost in addition to the cost to purchase the trees and landscaping.
- (d) Any fiscal deposits for trees and landscaping paid to the city pursuant to this section shall be held in escrow. The escrow may be drawn upon by the city to implement tree and landscaping requirements for the depositing property owner, or the funds shall be released to the depositing property owner to implement tree and landscaping requirements within 30 days when the drought mitigation center determines that this region is no longer in an extreme drought condition or higher classification. Failure to implement the tree and landscaping requirements within 30 days of release of the fiscal deposit to the depositing property owner shall be deemed a violation and the fines and penalties under section 28.06.009 of this article shall apply.
- (e) Whenever necessary to enforce any provision of this article or implement tree and landscaping requirements on the depositing property owner's property, city staff, or the city's contractor, may enter upon depositing property owner's property at any reasonable time to inspect or perform any duty imposed by this article during an extreme drought classification for this region. If entry is refused, the city shall have recourse to every remedy provided by law and equity to gain entry.
- (f) The city is the custodian of any cash funds or bonds on deposit in the property owner's escrow account. The city has a fiduciary duty to the depositing property owner and may dispose of the escrowed funds only in accordance with this section.

Sec. 28.06.0611 Seasonal Installation Bond/Escrow

- (a) Landscaping for any project should be installed at an appropriate time of year, to maximize the survivability of the material being planted. If construction activities are completed, save for the installation of trees, shrubs, ornamental ground covers, perennials, and annuals, from March 15 thru September 15, the Tree Board, at the option of Owner, may accept a fiscal deposit of the amount equal to the cost of purchasing and installing these materials in lieu of the installation of trees and other landscaping required for the issuance of a certificate of occupancy or certificate of completion, as appropriate; or, the Tree Board may accept an escrow equal to the cost of purchasing and installing the trees and other required landscaping. The City shall only accept the fiscal deposit or escrow if an erosion control plan consistent with section 28.04.016 of the Code has been reviewed and accepted by the

City Administrator. Failure to maintain and adhere to an approved erosion control plan during the period March 15 – Sept. 15 shall be deemed a violation and the fines and penalties under section 28.06.009 of the Code shall apply.

- (b) Upon the request that the City accept a fiscal deposit in lieu, owner/applicant shall provide the City Administrator with written documentation from an entity that sells trees and landscaping the cost of purchasing and installing the trees and other landscaping required by the Code.
- (c) If no cost for the installation of trees and landscaping required by the Code is provided to the City, the City shall require a fiscal deposit equal to 66% of the cost of the trees and landscaping to be delivered to the City as the installation cost in addition to the cost to purchase the trees and landscaping.
- (d) Any fiscal deposits for trees and landscaping paid to the City pursuant to this chapter shall be held in escrow. The escrow may be drawn upon by the City to implement tree and landscaping requirements for the depositing property owner, or the funds shall be released by the City to the depositing property owner or his/her/its designee to implement tree and landscaping requirements within 30 days of drawing upon the escrow. Failure to implement the tree and landscaping requirements within 30 days of release of the fiscal deposit to the depositing property owner shall be deemed a violation and the fines and penalties under section 28.06.009 of the Code shall apply.
- (e) Whenever necessary to enforce any provision of this section or implement tree and landscaping requirements on the depositing property owner's property, City staff, or the City's contractor, may enter upon depositing property owner's property at any reasonable time to inspect or perform any duty imposed by this section until such time the complete landscape package has been installed and accepted by the City. If entry is refused, the City shall have recourse to every remedy provided by law and equity to gain entry.
- (f) The City is the custodian of any cash funds or bonds on deposit in the property owner's escrow account. The City has a fiduciary duty to the depositing property owner and may dispose of the escrowed funds only in accordance with this section.

Sec. 28.06.062 Tree Canopy Investment Fund

Fund Established. The finance director is hereby directed to establish a dedicated account to be entitled Tree Canopy Investment Fund.

(a) Tree Canopy Investment Fund Fees.

- (1) A fee shall be assessed for each residentially platted lot or for each residential building permit issued as established by the City Fee Ordinance.
- (2) A fee per acre or portion thereof shall be assessed for each commercially platted lot or a fee per acre for each lot for which a commercial building permit is issued by the department of planning and development services as established by the City Fee Ordinance.

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- (3) Fees collected pursuant to the Tree Canopy Investment Fund shall be assessed at the time a tree permit is issued and recorded in the fund created pursuant to this section, unless expressly prohibited by law.
- (b) Use of Funds. The funds collected shall be utilized to pay for the planting and maintenance of trees to include a maintenance period not to exceed three (3) years. Generated funds may be used by the City Administrator to plant trees on public or private properties and the yearly digital imagery to proactively enhance the city's tree canopy area. Trees planted utilizing funds from the tree canopy fund are protected trees, and if approved to be removed, shall be mitigated at 1:1 unless heritage size which are mitigated at 3:1 (with the exception of species listed in 2.2B, which will be mitigated at 1:1) and are to be maintained by the project applicant. In addition, ten (10) percent of the funds collected will be kept in a separate budget line to be used for any litigation necessary in the enforcement of this section. The program is to be administered by the parks and community services department. The Director of the Parks and Community Services department and the City Administrator shall seek the advice of the parks and recreation board on the selection of projects to be funded. In addition, this fund may be used for grant programs for use for tree planting and preservation or oak wilt remediation on private property if for a public city purpose.
- (c) Funds to Be Kept Separate. The balance within the fund shall be recorded and accounted for in a manner that distinguishes them from other general funds of the city and shall be disbursed in a manner consistent with the purposes for which this fund has been established. The balance of this fund shall not be transferred to the general fund at the end of each budget year, but rather, the balance remaining in the fund at the close of the city's fiscal year shall roll over into the balance for the next fiscal year.

Commented [LM5]: Have you talked to Andy about doing this?

Sec. 28.06.063 Oak Wilt Management

- (a) Prohibited Trees. The planting of Texas Red Oak (*Quercus buckleyi*) aka Spanish Oak, Shumard Oak (*Quercus shumardii*), and similar thin bark red oaks is prohibited in areas known to be infested with Oak Wilt. These trees are potential sources of inoculum for the Oak Wilt fungus, *Ceratocystis fagacearum*. Fungal spore mats formed on these types of trees are attractive to insect vectors, which results in long range dissemination of the fungus.
- (b) Trimming or cutting of any oak species is prohibited from the first day of February to the last day of July. Permission may be granted to any entity wishing to trim or cut an oak tree susceptible to oak wilt during the prohibited months, provided that the entity contracts with a licensed professional tree care or landscaping company. In the case of oak species, wounds must be painted with an acceptable wound dressing within 30 minutes from the time of cutting.
- (c) Contractors or individuals identified pruning any oak(s) without a demonstrated ability to seal all wounds greater than 0.75 inches within 30 minutes of the time of cutting will be required to cease all work until a wound sealant is onsite and utilized on the project.
- (c) It is an offense for a contractor or individual to prune any oak without sealing wounds with an acceptable wound dressing within 30 minutes of pruning.
- (d) Infected red oaks that die in late summer, fall or early winter should be cut down and

burned when allowed, buried, or chipped soon after discovery to prevent fungal mats that may form on these trees the following spring.

(e) Potential oak wilt investigations should be performed by a member of the Texas Forest Service, a Texas Oak Wilt Qualified (TOWQ) ISA certified arborist or the City Arborist. For information on oak wilt identification, spread and management reference www.texasoakwilt.org.

(f) The planting, preserving, and maintaining of trees which are contagiously diseased trees, or the storage of cut oak unless first determined by a certified arborist to be devoid of oak wilt or properly treated, shall be deemed a public nuisance and is prohibited.

(g) A violation of this section is an offense under section 28.06.009.

Chapter 2 – Administration and Personnel

Article 2.04 – Boards, Commission, and Committees

Division 11. – Tree Board

2.04.290. – Title.

This division shall be commonly cities as the “tree board ordinance.”

2.04.291. – Purpose.

This division provides standards for the formation, function, and responsibilities of a board tasked with managing the tree canopy and landscape within the City on City, government, and private property. The Board shall act in an advisory capacity to department directors related to trees and landscaping.

2.04.292. – Membership; Meetings

(a) Number of members.

(1) The board shall consist of five voting members appointed by City Council.

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- (2) Voting members of the board shall live within the city's corporate limits or extra-territorial jurisdiction, and will serve without compensation.
 - (3) The board will have one or two nonvoting members, who may be a member of city council or a city employee from the planning or building department, or both.
 - (4) The board may add nonvoting members on an as-needed basis as approved by a majority of the board and the city council.
- (b) Terms of members. All appointments to the board shall serve a term of office of two years, except as noted below. Expiration of terms shall be staggered so that an overlapping occurs (in the first one-year period, the terms of two members shall expire during that year, and the term of three members shall expire in the second year). Members may be reappointed with no limitation on the number of terms one member may serve.
- (c) Member selection.
- (1) Every year, city staff will prepare a slate of nominees for city council consideration. Potential nominees may express interest in the board by contacting the city secretary in writing.
 - (2) The city council will approve, reject, or modify the list.
 - (3) The city council shall appoint a chair among the members. The chair shall serve a term concurrent with the member's two-year term. The board may select a vice chair from the remaining members.
- (d) Member removal. Members of the board may be removed from office by the city council at any time by a simple majority vote of the full city council (three out of five), either:
- (1) Upon its own motion;
 - (2) Upon recommendation of a simple majority (three out of five) of the board.
- (e) Resignation; vacancies. A board member may resign by notifying the city secretary in writing of the member's intent to resign. A failure to attend three or more sequential board meetings without approval from the chair will constitute a de facto notification of intent to resign. Any vacancy shall be filled by the city council upon staff recommendation. All appointments shall be subject to approval by city council.
- (f) Meetings.
- (1) The board will meet at a minimum of four times a year.
 - (2) Board will have the authority to schedule additional meetings at any time by the chair's recommendation.
 - (3) The board will make a report to the city council at the first meeting of each month after a board meeting to update the council on projects and progress.
 - (4) All meetings shall be open to the public.
- (g) Authority.
- (1) The authority of the board will include the following:
 - (A) Coordinate and promote Arbor Day activities;
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- (B) Review and update a five-year plan to plant and maintain trees on city property;
 - (C) Support public awareness and education programs relating to trees;
 - (D) Review city department concerns relating to tree care;
 - (E) Submit an annual report of its activities to the city council;
 - (F) Assist with the annual application to renew the Tree City USA designation;
 - (G) Recommend a list of tree species for planting on city property, and a list of prohibited species; and
 - (H) Other duties that may be assigned by City Council, City Administrator, City Arborist, and/or their designees.
- (2) Decision-making authority related to tree preservation and planting to be issued in writing:
- (A) Waiver for paving over critical root zone under Sec. 28.06.055.
 - (B) Waiver for Heritage Tree Removal under Sec. 28.06.059.
 - (C) Waiver for tree removal in Water Quality Buffer Zones under Sec. 28.06.059.
 - (D) Waiver to plant trees on adjacent lots under Sec. 28.06.0591.
 - (E) Waiver to plant trees in specific locations under Sec. 28.06.0591.
 - (F) Waiver for tree removal related to fee-in-lieu under Sec. 28.06.0591.
 - (G) Waiver for tree canopy credit under Sec. 28.06.0591.
 - (H) Waivers for any other decisions related to tree preservation and related items as directed by city council.

(h) Appeal from Tree Board decisions.

- (1) An applicant aggrieved by a tree board decision may appeal to the city council.
- (2) The appeal must be filed not later than ten (10) days after the written decision has been rendered by the property owner.
- (3) Upon receiving the notice, the tree board shall transmit all papers to the city council.
- (4) The city council shall decide the appeal at the next meeting that is at least ten (10) business days from receipt of the written request for an appeal.
- (5) The city council may reverse or affirm, in whole or in part, or modify the tree board's decision from which the appeal is taken.
- (6) A member of the tree board may not bring an appeal on behalf of a property owner, other than themselves, to the city council.

Sec. 2.04.293 – Support

- (a) City staff, city arborist, and the city engineer shall provide logistical support to the board, as defined by access to city facilities for purposes of public meetings, access to city resources for purposes of copies and communications, and a designated staff liaison to coordinate and direct such support.
- (b) The city staff will post agendas and information requested by the board, will take minutes at each meeting, and provide other requested support.