

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 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 (8) inches in caliper or greater measured at DBH;
- (2) A multi-trunked hardwood tree having a total trunk DBH of thirty (30) inches or more (not counting trunks less than eight (8) inches in diameter); or
- (3) A cluster of hardwood trees within a ten-foot radius circle having a total trunk DBH of forty (40) inches or more (not counting trunks less than eight (8) inches in diameter).

~~(Ordinance 6300.10, ex. A, sec. 2, adopted 2/12/08)~~

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

Extreme drought classification. ~~A D3 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, 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.~~

~~(Ordinance 6300.12 adopted 11/11/14)~~

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 ~~10.0322.05~~).

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

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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.

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 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.

(Ordinance 6300.10, ex. A, sec. 2, adopted 2/12/08)

Sec. 28.06.005 Applicability

This article applies to all ~~new commercial~~ development requiring site plan approval subject to zoning requirements, including:

1. All residentially zoned property for which a subdivision is accepted by the City after the effective date of this ordinance;
2. All industrial, commercial, office, multi-family, institutional development 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;
3. 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.

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

includes:

4. Any grading, filling and/or clearing /-grubbing of land;
5. Chemical or biological application on or near tree(s) that may result in the death or destruction of any tree(s) as defined;
6. Trenching or excavating that may damage or destroy protected trees as defined;
7. All governmental development shall comply with the tree preservation plan review procedure regardless of the zoning district in which they are located;
8. Detached and attached dwelling lots platted after the effective date of this ordinance.

(Ordinance 6300.10, ex. A, sec. 3.1, adopted 2/12/08)

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. (Ordinance 6300.10, ex. A, sec. 3.2, adopted 2/12/08)

Sec. 28.06.007 Damaging or removing trees

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No person shall damage or remove trees in violation of this article. (Ordinance 6300.10, ex. A, sec. 3.3, adopted 2/12/08)

Sec. 28.06.008 Violations

It shall be unlawful for any person to violate this article. (Ordinance 6300.10, ex. A, sec. 5, adopted 2/12/08)

Sec. 28.06.009 Enforcement; penalties

(a) Compliance. Violators of this article will be required to come into compliance within sixty (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 two thousand dollars (\$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 five hundred dollars (\$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.

(Ordinance 6300.10, ex. A, sec. 6, adopted 2/12/08)

Secs. 28.06.010–28.06.050 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 (1) required tree planted in the front yard. Three (3) small trees/large shrubs may be substituted for one required tree. The following minimum standards apply.

Zoning	No. of Required Trees
SF-1	02
SF-2	2

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SF-3	2
SF-4	2
SF-5	1 per unit
MF	1 per unit
MH	1

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(b) Nonresidential street tree requirements. At least one (1) required tree, shall be planted adjacent to or near the street right-of-way for each twenty-five (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.

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(c) Trees planted shall be a minimum four (4) inch caliper ~~DBH~~, staked, and wrapped. Small trees/large shrubs trees shall be a minimum two (2) inch caliper ~~DBH~~, staked, and wrapped.

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(d) Trees with deep roots may be planted in the area between the sidewalk and road if approved by the city administrator ~~tree advisory board~~. 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 or wastewater easements.

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Sec. 28.06.052 Landscape buffers

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(a) Landscape buffer planting requirements.

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(1) All plant material shall be of native or adapted species.

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(2) All new proposed shade trees shall be a minimum of 4 inches in caliper ~~diameter~~.

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(3) All proposed ornamental trees shall be a minimum of 2 inches in caliper ~~diameter~~.

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(4) All large shrubs shall be a minimum of 5-gallon container size and small shrubs/groundcovers a minimum of 1-gallon container size.

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

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(1) Shade trees (such as Live Oak or Cedar Elm). One per 50' of buffer frontage.

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(2) Ornamental trees (such as Crape Myrtle or Desert Willow). One per 25' of buffer frontage.

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(3) Large shrubs, five-gallon (such as Wax Myrtle, DW Yaupon, or Agarita). One per 6' of buffer frontage.

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(4) Small shrubs/groundcovers, one-gallon (such as Lantana or Liriope). One per 3' of buffer frontage.

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(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:

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	At Arterial Roadways	At Collector Roadways
AG	Zero (0)	Zero (0)
SF-1	Zero (0) <u>Thirty-five feet (35')</u>	Zero (0) <u>Twenty-five feet (25')</u>

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SF-2	Thirty-five feet (35')	Twenty-five feet (25')
SF-3	??	??
SF-4	Fifty feet (50')	Forty feet (40')
SF-5	Forty feet (40')	Thirty feet (30')
MF	Fifty feet (50')	Forty feet (40')
MH	Thirty-five feet (35')	Twenty-five feet (25')
O	Twenty-five feet (25')	Twenty-five feet (25')
LR	Twenty-five feet (25')	Twenty-five feet (25')
GR	Twenty-five feet (25')	Twenty-five feet (25')
CS	Twenty-five feet (25')	Twenty-five feet (25')
I	Fifty feet (50')	Fifty feet (50')
H	Twenty-five feet (25')	Twenty-five feet (25')
GUI	Twenty-five feet (25')	Twenty-five feet (25')
PR	Twenty-five feet (25')	Twenty-five feet (25')
PP	Twenty-five feet (25')	Twenty-five feet (25')
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.

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.

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

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- (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 ninety (90) square feet for each twelve (12) parking spaces.
- (c) One tree is required for every six (6) parking spaces. Tree preservation is encouraged, thus one (1) existing tree that is at four (4) inches DBH shall count for two (2) new trees.
- (d) No parking space shall be located further than fifty (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 advisory board. All approved paving shall be porous pavement to allow water and air exchange.

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 (2) 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 twelve (12) feet to allow proper service access. An additional ten (10) 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.
- (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;
- (3) The repair or replacement of required landscape structures (walls, fences, etc.) to a structurally sound condition;
- (4) The regular maintenance, repair, or replacement, where necessary, of any screening or buffering;

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(54) Replacing planted trees if they die or become diseased beyond repair within five (5) years after planting; and

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(65) 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.

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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.

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Sec. 28.06.059 Tree preservation

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(a1) Exceptions: The following shall be exempt from the requirements of this Section:

1. 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.

2. ~~Hazardous~~Dangerous, diseased, dead or dying trees as determined by a tree survey and a letter from an ISA certified Texas Arborist.

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3. Trees causing physical damage to existing structures, drainageways, utility systems or facilities in the public right of way.

4. Protected trees damaged or destroyed by floods, fire, wind or other natural causes;

5. The following exempted tree species; Hackberry, Sugarberry, Chinese Tallow, Eastern Red Cedar, Common Ashe Juniper < 10" DBH, Chinaberry, Mesquite, Huisache and Ligustrum.

6. Trees or areas of tree canopy preventing the opening of reasonable and necessary vehicular traffic lanes in a street or alley.

7. Trees or areas of tree canopy located in the clear site line vision area and impeding required sight distance, as defined by the Dripping Springs Technical Criteria Manual (DSTC) Chapter 28, Exhibit C, # the street improvement standards, section 7.5 intersection visibility.

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8. 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:

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a. roadways, bridges, culverts, and associated traffic facilities; and

b. sidewalks and similar off-highway trails and passageways; and

c. streets and passageway lighting; and

d. surface and subsurface stormwater drainageways (where horizontal boring is not practicable);

and

e. subsurface potable water and wastewater utility infrastructure (where horizontal boring is not practicable); and

f. roadway widening/creating on-street parking

(a2) 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 (1) 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 within the project shall be represented.

(b2) Protected trees are defined as follows:

1. Hardwood trees defined in Sec. 28.06.004 "Definitions"

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2. The following species are 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.

3. 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 ~~twelve~~ ~~eight~~ (8+2) inches or greater DBH (the value of the ~~twelve~~ ~~eight~~ (12+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*).

4. 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 (*Taxodium species*).
- vi. Japanese Ligustrum (*Ligustrum japonicum*).
- vii. Japanese Ligustrum (*Ligustrum japonicum*);
- viii. Nandina (*Nandina domestica*);
- viii. Paper Mulberry (*Broussonetia papyrifera*)

(b34) 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.

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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. The following shall apply to Protected trees:

a. Commercial and Multi-family – A minimum of 40% of Standard trees, exclusive of Heritage trees, shall be preserved on a lot.

b. Subdivision Development of Single-family and other residentially zoned areas – A minimum of 35% of standard trees, exclusive of clearing and installation for infrastructure (roads, utilities, etc.) and lot lines is allowed.

c. Commercial, Industrial and Multi-family – 100% of Heritage trees shall be preserved. Heritage trees within clearing and installation for infrastructure (roads, utilities, etc.) shall not be removed without mitigation. If removal of a Heritage Tree is required for the construction of infrastructure (roads, utilities, etc) it must first be approved by the City Administrator tree advisory board.

d. Single-family and other residentially zoned areas – 100% of Heritage trees on platted lots, shall be preserved. Heritage trees within clearing and installation for infrastructure (roads, utilities, etc.) shall not be removed without prior to approval by the City Administrator tree advisory board and mitigation.

e. Steep slopes –Protected trees shall not be removed from a steep slope area.

f. Tree preservation in the Water Quality Protection Buffer Zones

No trees shall be removed without following the procedures set forth for Water Quality Buffer Protection Zones. The minimum percentage of trees to be preserved shall be

by tree type, as follows:

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

(a) Standard trees – 100% shall be preserved

(b) Legacy trees – 80% shall be preserved

(c) Heritage trees – 100% shall be preserved

(b2) A Tree Preservation Plan shall be submitted with the site development plans and construction plans. Unbroken circles indicate trees that are to remain. Dashed circles indicate trees that are to be removed (including trees identified to be distressed).

(c) Mitigation for Trees Removed

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 one hundred dollars (\$100.00) per caliper inch or six thousand dollars (\$6,000.00) per acre (prorated for sites of more or less than one acre) for the entire site.

1. When the specific minimum tree preservation requirements are not met 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

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percentage is reached. The number of trees needed to meet the preservation requirement will be included in the mitigation calculation.

2. Protected trees which are removed shall be mitigated using any combination of the following:

a. Preservation of existing trees >6 inches in DBH above minimum preservation requirements;

b. Relocation of the removed tree onsite, mitigation is required for relocated trees if mortality occurs within 2-years of the relocation;

c. replacement by new Legacy tree species, or alternative native trees approved by the City Administrator or designee; and/or

d. payment of a fee in lieu of tree replacement.

3. 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 in good health,

greater than ~~>6-~~inches in DBH, 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.

4. 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.

5. 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.

6. Replacement trees shall be a minimum of two caliper inches measured 6 inches from ground level and a minimum height of 8 feet when planted.

7. When possible, replacement trees shall be planted on the same lot according to an approved TPP. Replacement trees may be planted on another lot if approved by the ~~City Administrator~~tree advisory board or designated representative.

8. Biodiversity requirements for tree replacement

a. When replacing trees on site, or at a location approved by the City Manager, no single tree species may account for more than 50% of the total required caliper inches to be replaced.

b. 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.

9. Fee in lieu of replacement:

a. If all or a portion of the required replacement trees will not be planted on-site or on a site approved by the ~~City Administrator~~tree advisory 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:

b. As described in Texas Government Code Sec.212.905, a tree mitigation fee is not required

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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>

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* 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).

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(c1) **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 his 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. 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.

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(5) **Understory.** The city ~~arborist~~tree advisory 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 subsection ~~(e)~~. 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 waive 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 Program in lieu of meeting city requirements in this division as long as twenty (20) percent of existing trees on-site are preserved.

(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.

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(12) **Athletic Fields.** Athletic fields shall be deleted from the gross area for the final tree canopy cover requirements, however the tree preservation requirements shall remain at twenty-five (25) percent for both methods tree survey or tree stand delineation.

(13) **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.

(c2) Oak Wilt Management

f. a. The planting of Texas Red Oak (*Quercus buckleyi*) aka Spanish Oak, Shumard Oak (*Quercus shumardii*), and similar thin bark red oaks is prohibited. 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.

d. Contractors or individuals identified pruning any oak without sealing wounds with an acceptable wound dressing within 30 minutes of pruning will be assessed a \$500 fine per occurrence.

e. 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.

f. 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 urban forester. For information on oak wilt identification, spread and management reference www.texasoakwilt.org

g. Trees identified by a certified arborist or forester as distressed shall not be included in tree preservation requirements evaluation.

(d) 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.

(e) 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.

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(f) 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 (10) 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~~chain-link, or other solid material approved by the ~~city administrator~~tree advisory board. Stakes shall be no more than six (6) feet apart and at least one and one-half (1-1/2) feet deep into the ground. Rigid fencing shall be at least three (3) feet in height.

(g) The ~~city administrator~~tree advisory board 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~~tree advisory board or designee.

(i) Parking or storing of vehicles, equipment or materials allowed within the critical root zone is prohibited.

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Sec. 28.06.059b Tree Canopy Investment Fund

Tree Canopy Investment Fund.

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

(2) Tree Canopy Investment Fund Fees.

(i) A fee of fifteen dollars (\$15.00) per lot shall be assessed for each residentially platted lot or for each residential building permit issued.

(ii) A fee of twenty-five dollars (\$25.00) per acre or portion thereof shall be assessed for each commercially platted lot or a fee of twenty-five dollars (\$25.00) per acre for each lot for which a commercial building permit is issued by the department of planning and development services.

(iii) 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.

(3) 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~~tree advisory board 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 recreation department. The Director of the Parks and Recreation department and the City Administrator shall seek the advice of the parks and recreation board on the selection of projects to be funded.

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(4) 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.

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Sec. 28.06.060 Irrigation requirements

- (a) An irrigation plan is required as part of ~~the site~~ development plans and construction plans 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.

~~(Ordinance 6300.11 adopted 4/8/14)~~

Sec. 28.06.061 Drought conditions

(a) During extreme drought classifications for this region as determined by the local water supply jurisdiction National Drought Mitigation Center, the ~~city administrator~~ tree advisory board, 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~~ tree advisory 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 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 sixty-six (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 thirty (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 thirty (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.

~~(Ordinance 6300.12 adopted 11/11/14)~~

Section 4. Tree advisory board.

The City Council hereby creates a "Tree Advisory Board," hereinafter referred to as the "Board."

- (a) **Duties.** The Board shall act in an advisory capacity to department directors and shall:
 - (1) Coordinate and promote Arbor Day activities;

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- (2) Review and update a five-year plan to plant and maintain trees on city property;
 - (3) Support public awareness and education programs relating to trees;
 - (4) Review city department concerns relating to tree care;
 - (5) Submit an annual report of its activities to the city council;
 - (6) Assist with the annual application to renew the Tree City USA designation;
 - (7) Recommend a list of tree species for planting on city property, and a list of prohibited species;
and
 - (8) Other duties that may be assigned by City Council, City Administrator, City Arborist, and/or their designees.
- (b) **Membership.** The Board shall consist of five members approved by City Council. Members of the Board shall live within the city's corporate limits or extra-territorial jurisdiction, and will serve without compensation.
- (c) **Term of office.** Board members shall be appointed for three-year staggered terms. If a vacancy shall occur during the term of any member, a successor shall be appointed by City Council.
- (d) **Officers.** The Board shall annually select one of the members to serve as chair, may appoint a second member to serve as vice-chair, and may appoint a third member to serve as secretary.
- (e) **Meetings.** The Board shall meet a minimum of four times each year, or as often as there are items which require the board's action, whichever is more. All meetings shall be open to the public. The Board chair may schedule additional meetings as needed.