

The purpose of this chapter is to promote site planning which furthers the preservation of mature trees and natural areas, to protect trees during construction, to facilitate site design and construction which contribute to the long term viability of existing trees and to control the removal of trees when necessary. It is the further purpose of this chapter to achieve the following broader objectives:

- 1) Prohibit the indiscriminate clearing of property
- 2) Protect and increase the value of residential and commercial properties within the city
- 3) Maintain and enhance a positive image for the attraction of new business enterprises to the city
- 4) Protect healthy quality trees and promote the natural ecological environmental and aesthetic qualities of the city per our Vision Statement.

Definitions

- Protected Tree – Hardwood Trees with a DBH of 10” if deemed a fast growing tree of 5” if deemed a slow growing tree.

Permits

No person, directly or indirectly, shall cut down, destroy, remove or move or effectively destroy through damaging any healthy “Protected” tree situated on property regulated by this chapter without first obtaining a tree removal permit unless otherwise specified in this chapter.

Authority for Review

The building official shall be responsible for the review and approval of all requests for tree removal permits submitted in accordance with the requirements specified herein.

- (A) Deferrals. The building official may defer the approval of a tree removal permit to the Planning & Zoning Commission for any reason.
- (B) Appeals. Any decision made by the Building Official may be appealed to the Planning & Zoning Commission. All decisions made by the Planning & Zoning Commission shall be final.

Submittal Requirement

The Building Official shall establish administrative procedures necessary to facilitate the implementation and enforcement of this chapter.

- A) Tree removal permit. A request for a tree removal permit must be submitted and approved prior to the removal of any Protected tree in the city unless the tree is exempt under a provision of this chapter.
- B) All tree removal permits shall be accompanied by a payment made to the city in the amount specified by City Council.

- C) Required documents. Either a transparency or tree survey shall be required as determined by the Building Official and must include items referenced in this chapter and its appendices.
- D) Permit Expiration. Permits for tree removal issued in connection with a building permit or site plan shall be valid for the period of that building's permit or site plan's validity. Permit(s) for tree removal not issued in connection with a building permit or a site plan shall become void 180 days after the issue date on the permit.

Action on Permit Application

The Building Official or Planning & Zoning Commission shall grant a tree removal permit based on the following criteria:

- a) Whether or not a reasonable accommodation or alternative solution can be made to accomplish the desired activity without the removal of the tree.
- b) The cost of preserving the tree
- c) Whether the tree is worthy of preservation depending on the individual characteristic of the tree
- d) The effect of the removal of erosion, soil moisture, retention, flow of surface waters and drainage systems.
- e) The need for buffering of residential area from the noise, flare and visual effects of nonresidential uses.
- f) Whether the tree interferes with a utility service
- g) Whether the proposed tree replacement pursuant to the tree requirements hereof adequately mitigates the removal of the tree
- h) Whether the removal affects the public health, safety or welfare.

Regulations:

Clear Cutting

The clear cutting of land as defined in this chapter is permitted as long as no Protected Trees are damaged during the clear cutting.

Selective Thinning

Removal of selected trees from within a densely forested area when done in a professionally accepted manner shall be allowed as a single permit upon approval by the Building Official. It is recommended to have an arborist or Texas Forest Service recommendation when seeking permitting for Selective Thinning to ensure that the manner this is conducted will enhance the environment and the likelihood of survival of the remaining trees.

Ground Level Cuts

Where protected tree removal is allowed through exemption or by tree removal permit and the root system is intertwined with protected trees which are intended to be saved, the tree shall be removed by flush cutting with the natural level of the surrounding group. Where stump removal is desired, stump grinding shall be allowed. When recommended by an arborist of the Texas Forest Service, a trench may be cut between trees sufficient to cut the roots near the tree

to be removed, thereby allowing removal of the remaining stump with out destruction of the root system of the saved trees.

New Developments

All developments which have not submitted final construction plans as of the effective date of this chapter shall be subject to the requirements for tree protection and replacement specified as follows:

- 1) Residential Developments. All areas within street right-of-ways, utility or drainage easements as shown on an approved final plat and areas designated as cut/fill on the master construction plan shall follow the protected tree plans as reasonably possible. Meaning plans should be designed to allow for Protected trees to remain on site. A developer may request a permit to allow for the removal of Protected Trees prior to final approval of the plat. Additionally Protected trees within potential building pads may be removed from permit requirements if identified during the plat review process and placement of the building pads cannot prevent the Protected tree from being saved.
- 2) Non-residential development. All areas within street right-of-ways, utility or drainage easements as shown on an approved final plat and areas designated as cut/fill on the master construction plan shall follow the protected tree plans as reasonably possible. Meaning plans should be designed to allow for Protected trees to remain on site. A developer may request a permit to allow for the removal of Protected Trees prior to final approval of the plat. Additionally Protected trees within potential building pads, fire lanes, and parking areas may be removed from permit requirements if identified during the plat review process and placement of the building pads cannot prevent the Protected tree from being saved.
- 3) Gas well drilling and production facilities/natural gas pipelines shall not be exempt from the tree protection and replacement requirements

Private Property

- a) Homestead – the owner of property which is used for an individual residence or homestead shall be permitted to remove one Protected tree per calendar year without obtaining a permit.
- b) Agricultural Property – the owner of property being used for agricultural purposes shall be permitted to remove up to seven Protected trees per calendar year without obtaining a permit. Protected trees removed in excess of seven will require permits. It is not the intent of this chapter to prohibit the clearing of land for legitimate, agricultural use.

Exemptions

A tree removal permit and tree protection and replacement requirements shall not be required under any of the following circumstances. Burden of proof as a qualified exemption is upon the remover of the tree.

- A) Preexisting Conditions: All construction activities for which final construction plans and building permit applications have been submitted prior to the effective date of this ordinance shall be exempt.
- B) Diseased Trees: The tree is diseased, damaged beyond the point of recovery or in danger of falling as determined by the Building Official prior to the removal of the tree. The removal of a diseased tree by the city or an individual is required to reduce the changed of spreading the disease to adjacent healthy trees.
- C) Public Safety: The tree endangers the public health, welfare, or safety and immediate removal is required
- D) Utility Service Interruption: The tree has disrupted a public utility service due to weather or act of God. Removal shall be limited to the portion of the tree reasonable necessary to reestablish and maintain reliable utility service.
- E) Landscape nursey. All licensed plant or tree nurseries shall be exempt from the requirements of this chapter as they pertain to those trees planted and growing on the premises of the licensee that are for sale or intended to sale to the general public in the ordinary course of the licensee's business.

Tree Replacement Requirements

- a) In the event that it is necessary to remove a protected tree, the party removing the tree (Other than franchise utility companies) shall be required to replace the protected trees being removed with quality trees of the same nature, that has the ability to grow to the same canopy as the removed trees within a reasonable time frame. This mitigative measure is not meant to supplant good site planning. Tree replacement will be considered only after all design alternative which could save more existing trees have been evaluated and reasonable rejected. Said replacement trees shall be a minimum of three-and-a-half inch diameter (measured at one foot above ground and seven feet in height when planted. Cedar, Juniper, and Fruitless Mulberry, Mimosa, and Hackberry trees are not acceptable replacement trees.