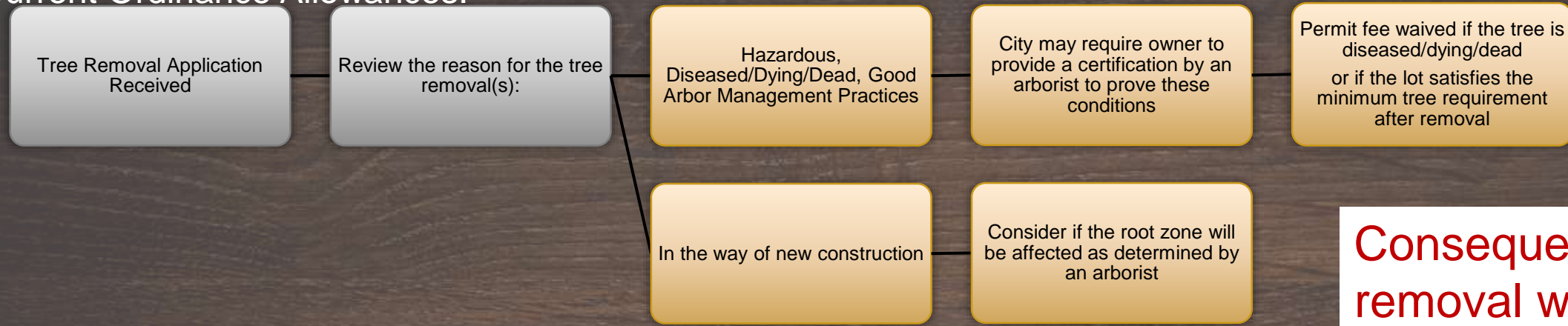




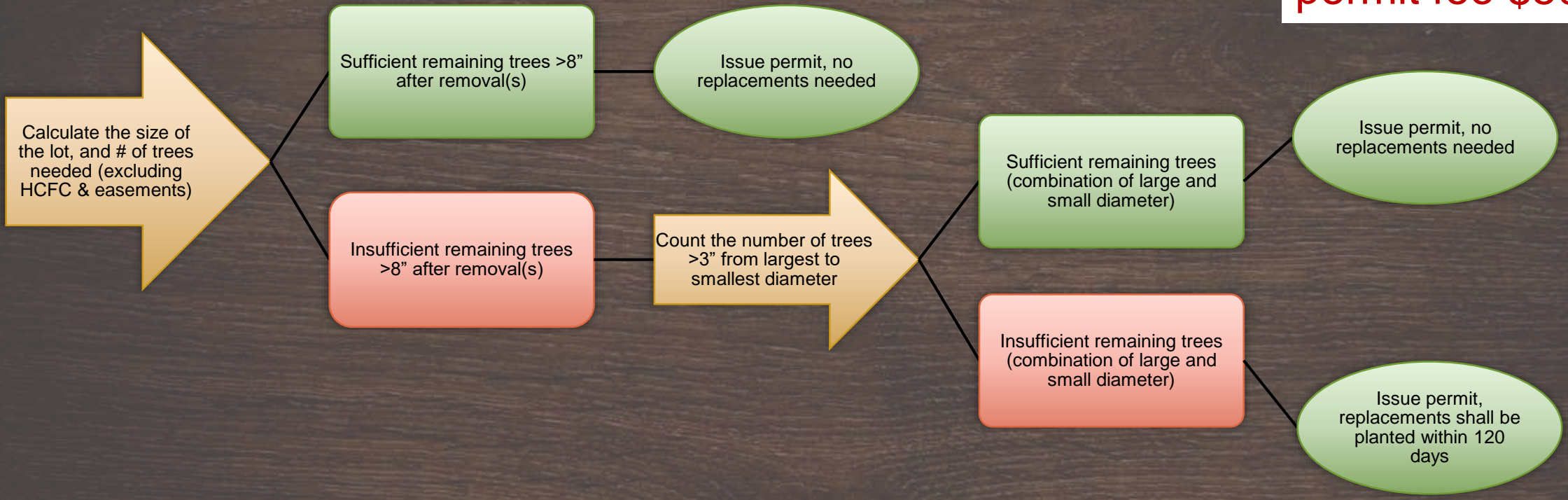
City of Hilshire Village

ORDINANCE REVIEW: 7.700 TREE PRESERVATION

Current Ordinance Allowances:



Consequence for removal without permit is double the permit fee \$50



LOCAL GOVERNMENT CODE
TITLE 7. REGULATION OF LAND USE, STRUCTURES, BUSINESSES, AND RELATED ACTIVITIES
SUBTITLE A. MUNICIPAL REGULATORY AUTHORITY
CHAPTER 212. MUNICIPAL REGULATION OF SUBDIVISIONS AND PROPERTY DEVELOPMENT
SUBCHAPTER A. REGULATION OF SUBDIVISIONS

Sec. 212.905. REGULATION OF TREE REMOVAL.

(a) In this section:

(1) "Residential structure" means:

(A) a manufactured home as that term is defined by Section 1201.003, Occupations Code;

(B) a detached one-family or two-family dwelling, including the accessory structures of the dwelling;

(C) a multiple single-family dwelling that is not more than three stories in height with a separate means of entry for each dwelling, including the accessory structures of the dwelling; or

(D) any other multifamily structure.

(2) "Tree mitigation fee" means a fee or charge imposed by a municipality in connection with the removal of a tree from private property.

(b) A municipality may not require a person to pay a tree mitigation fee for the removed tree if the tree:

(1) is located on a property that is an existing one-family or two-family dwelling that is the person's residence; and

(2) is less than **10 inches** in diameter at the point on the trunk 4.5 feet above the ground.

(c) A municipality that imposes a tree mitigation fee for tree removal on a person's property must allow that person to apply for a credit for tree planting under this section to offset the amount of the fee.

(d) An application for a credit under Subsection (c) must be in the form and manner prescribed by the municipality. To qualify for a credit under this section, a tree must be:

(1) planted on property:

(A) for which the tree mitigation fee was assessed; or

(B) mutually agreed upon by the municipality and the person; and

(2) at least two inches in diameter at the point on the trunk 4.5 feet above ground.

- (e) For purposes of Subsection (d)(1)(B), the municipality and the person may consult with an academic organization, state agency, or nonprofit organization to identify an area for which tree planting will best address the science-based benefits of trees and other reforestation needs of the municipality.
- (f) The amount of a credit provided to a person under this section must be applied in the same manner as the tree mitigation fee assessed against the person and:
 - (1) equal to the amount of the tree mitigation fee assessed against the person if the property is an existing one-family or two-family dwelling that is the person's residence;
 - (2) at least 50 percent of the amount of the tree mitigation fee assessed against the person if:
 - (A) the property is a residential structure or pertains to the development, construction, or renovation of a residential structure; and
 - (B) the person is developing, constructing, or renovating the property not for use as the person's residence; or
 - (3) at least 40 percent of the amount of the tree mitigation fee assessed against the person if:
 - (A) the property is not a residential structure; or
 - (B) the person is constructing or intends to construct a structure on the property that is not a residential structure.
- (g) As long as the municipality meets the requirement to provide a person a credit under Subsection (c), this section does not affect the ability of or require a municipality to determine:
 - (1) the type of trees that must be planted to receive a credit under this section, except as provided by Subsection (d);
 - (2) the requirements for tree removal and corresponding tree mitigation fees, if applicable;
 - (3) the requirements for tree-planting methods and best management practices to ensure that the tree grows to the anticipated height at maturity; or
 - (4) the amount of a tree mitigation fee.
- (h) A municipality may not prohibit the removal of or impose a tree mitigation fee for the removal of a tree that:
 - (1) is diseased or dead; or
 - (2) poses an imminent or immediate threat to persons or property.
- (i) This section does not apply to property within five miles of a federal military base in active use as of December 1, 2017.

Citizen Comments

Q: C. Wolfe: If a builder obtains a permit are we allowing them to determine what trees outside the construction areas can be removed after submitting approved plans that protected this particular tree? Builders should not be allowed to remove previously approved protected trees as a method to secure the sale of a property.

A: “Approved plans” do not require any promise or guarantee that the trees marked will remain. A lot of things can happen during construction, including the need to remove trees not anticipated but also to plant new trees in any area that qualifies. The builder is not required by ordinance to determine the final tree disposition at the start of construction.

HV Ordinances: Ch. 7, Article 7.700

Sec. 7.705 Removal of Trees

- (1) The city will permit the removal of a tree only if an owner demonstrates to the city that at least one (1) of the following criteria exists:
 - (a) The applicant's lot will, after removal of the tree, satisfy the minimum tree requirement as described in section 7.703(1);
 - (b) The tree is diseased, dying or dead;
 - (c) Construction is planned in the area where the tree stands;
 - (d) The tree creates a hazard that is or is likely to cause damage to property or danger to the public health, safety, or welfare; or
 - (e) Good arbor management practices indicate removal will be beneficial to surrounding trees.
- (2) **If the previous subsection is satisfied**, the city will issue a tree removal permit if a lot owner completes the following steps:
 - (a) Executes the city's tree removal permit application, which includes a certification that, upon removal of such tree, either the lot will continue to satisfy the minimum tree requirement as described in section 7.703(1) or the lot owner will comply with section 7.706 below regarding tree replacement. If concurrent tree removal permits are sought, the minimum tree requirement must be satisfied after all trees are removed.
 - (b) Pays the application fee as adopted by city council. The application fee shall be waived by the city if the applicant shows that the tree to be removed is diseased, dying or dead or if, after removal of a tree, the lot has more than the minimum tree requirement in section 7.703(1).
- (3) The city shall have a reasonable amount of time, but not less than three (3) business days, to review the application. The city may require an owner to provide certification by an arborist that the criteria in subsection (1)(b), (d) or (e) exist.
 - (4) Removal of a tree without a tree removal permit shall not constitute a violation of this article if immediate removal is necessary to protect against a serious and imminent risk to health, safety, or property as a result of an emergency and, because of such emergency, the lot owner could not obtain the tree removal permit, provided that, as soon as reasonably possible after such tree removal, the lot owner submits a tree removal permit application without the fee and demonstrates that such emergency existed.
 - (5) The city may require a lot owner to remove any tree that is damaged, dead or dying, and that the city deems a danger to person or property. The owner shall have fourteen (14) days after receipt of the notice to remove the tree.
 - (6) Removal of a tree shall be performed by the lot owner or by a reputable tree removal company, and the owner shall ensure that the tree removal work is adequately covered by bond or insurance.
- (Ordinance 745 , adopted 12/19/17, Section 1)

Currently, there is no language, penalty, or procedure for the removal of healthy trees beyond obtaining a \$25 tree removal permit & meeting the minimum tree requirements

Spring Valley, Hedwig, & Piney Point mitigation procedure

- In the event additional trees are requested for removal after the approved plan or during new construction the arborist/urban forester will make a site assessment and assign a mitigation fee for the removal.

*Piney Point \$200 per tree

*Spring Valley & Hedwig have a fee schedule per diameter of the tree

*Bunker Hill no mitigation fee

*Hunter's Creek?

Hedwig Village's tree removal fee schedule

TREE REMOVAL FEES: FOR NEW CONSTRUCTION, ADDITIONAL SQUARE FOOTAGE, OR POOLS	
Trees 10" and under 24" in DBH*	\$2,500/Per Tree
Trees equal or greater than 24" in DBH*	\$5,000 .00/Per Tree+ \$1,000 per each DBH* inch over 24"
Trees 10" in DBH* or greater not on the tree disposition plan or without a tree removal permit.	\$5,000.00/Per Tree**