

(100) persons based on the projected subdivision population. Population shall be calculated at 2.75 persons per dwelling unit.

- D. **Fees in Lieu of Dedication.** At the City's discretion, payment of fees in lieu of park land dedication may be required. The amount of such payment shall be equal to the fair market value of the land that would be required to be dedicated for park land according to this Ordinance.
- E. **Fair Market Value Determined.** The fair market value of the land shall be calculated as determined on the most recent appraisal made by the Johnson County Central Appraisal District of all or part of the property being subdivided at the time of preliminary plat approval. If there is no preliminary plat required, then the fair market value of the land shall be calculated at the time of final plat approval. If the Developer/Owner objects to the fair market value determination, the Developer/Owner at his own expense, may obtain an appraisal by a State of Texas certified real estate appraiser, mutually agreed upon by the City and the developer/owner.
- F. **Use of Fees.** Parkland dedication fees paid in lieu of land dedication will be deposited in a fund referenced to specific future neighborhood or community parks or existing neighborhood or community parks as identified on the City's Comprehensive Plan or Parks Master Plan as amended. Funds deposited into a particular park fund may only be expended for land or improvements within that particular future or existing neighborhood or community park.
- G. **Accounting of Fees.** The City shall account for all fees in lieu of land and all development fees paid under this Section with reference to the individual plat(s) involved. Any fees paid for such purposes must be expended by the City within ten (10) years from the date received by the City for acquisition and/or development of a neighborhood or community park as required herein. Such funds shall be considered to be spent on a first-in, first-out basis. If not expended, the landowners of the property on the expiration of such period shall be entitled to a prorated refund of each sum, computed on a square footage of land area basis. The owners of such property must request such refund within one (1) year of entitlement, in writing, or such right shall be barred.
- H. **Minimum Acreage.** Unless otherwise determined by the City, the minimum park land dedication that will be accepted by the City shall be three (3) acres.
- I. **Usable Park Land.** Any land dedicated to the City for park purposes in accordance with this Ordinance shall be appropriate for neighborhood or community park purposes as determined by the Administrative Official.

SECTION 10.10.8 - TREE PRESERVATION

- A. **Purpose.** The purpose of this section is to provide for the preservation of mature trees and natural areas during construction, development, and redevelopment, and to control the removal of "protected trees" as defined by this Ordinance. It also establishes rules

for replacement of protected trees and replanting of trees which must be removed during construction. This section shall protect any property from indiscriminate clearing and shall help maintain and enhance a positive image of the City as well as attract new business enterprises. The terms and provisions of this section shall apply to the following real property:

1. All new subdivisions of land at the time of preliminary and/or final platting;
2. All undeveloped land at the time of replatting;
3. All un-platted and undeveloped tracts of land greater than three (3) acres;
4. All nonresidential tracts of land at the time of site plan approval.

B. Definitions.

Buildable Area - That portion of a building site exclusive of the required yard areas on which a structure or building improvements may be erected and includes the actual structure, driveway, parking lot, pool, and other construction as shown on a site plan.

Building Pad - The actual foundation area of a building and a reasonable area around the foundation necessary for construction and grade transitions.

Critical Root Zone - The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the drip line.

Construction Drawings - Engineering or architectural drawings, which have been prepared by an authorized individual and approved by the Administrative Official, that describe in detail by measurements and specifications the method and manner in which a structure, building, utility, street, or physical alteration to land or a structure is to be accomplished.

Drip Line - A vertical line run through the outermost portion of the crown of a tree and extending down to the ground.

Limits of Construction - A delineation on a graphic exhibit which shows the boundary of the area within which all construction activity will occur.

Protection Fencing - Snow fencing, chain-link fence, barbed wire fence, orange vinyl construction fencing or other similar fencing with a four foot (4') approximate height.

Tree - Any self-supporting woody perennial plant which will attain a trunk diameter of three inches (3") or more when measured at a point twelve inches (12") above ground level and normally attains an overall height of at least twenty feet (20') at maturity, usually with one (1) main trunk and many branches. It may appear to have several stems or trunks as occurs in several varieties of oaks.

on the on the City's Preferred Tree List (Sect. 8.7 of Zoning Ord. Article 8 - Landscape, Open Space, and Tree Preservation) with a trunk diameter of 18 inches (18") or greater measured twelve inches (12") above ground.

Tree, Protected - Tree species that are approved by the City and should be saved are identified by individual characteristics of the tree, or a tree which has a diameter of eighteen inches (18") or greater measured twelve inches (12") above ground. The diameter of a multi-trunk tree shall be determined by adding the total diameter of the largest trunk to 1/2 the diameter of each additional trunk.

Trees that are not protected trees are as follows:

Sugar Hackberry	Celtis laevigata
Hackberry	Celtis occidentalis
Honeylocust	Gleditsia tracanthos
Bois d'arc	Maclura pomifera
Mimosa	Albizia julibrissin
Red Mulberry	Morus rubra
White Mulberry	Morus alba
White (Silver) Poplar	Populus alba
Lombardy Poplar	Populus nigra italica
Cottonwood	Populus deltoids
Mesquite	Prosopis glandulosa
Willow	Willow sp.
Silver Maple	Acer saccharinum
Sycamore	Platanus occidentalis

A sufficient number of trees shall be planted to equal, in caliper, the diameter of the trees removed. The replacement trees shall be at least (3") three inches in caliper when planted.

Tree, Replacement – A tree to compensate for the removal of a protected tree.

C. Tree Removal Permit.

listed in the City's Preferred Tree List

1. General: No person, directly or indirectly, shall cut down, destroy, remove or move, or effectively destroy through damaging any protected tree that is located on a property regulated by this section without first obtaining a tree-removal permit unless otherwise specified in this section.
2. New Development: Unless otherwise specified in Chapter 245 of the Local Government Code, all developments which have not submitted final plats as of the effective date of this section shall be subject to the requirements for tree protection and replacement specified herein.
3. Residential Subdivisions: All areas outside of the buildable area, as defined herein, within public rights-of-way, utility easements, or drainage easements as shown on

an approved final plat shall be exempt from the tree protection and replacement requirements specified herein. All other areas shall be subject to the requirements of this section and the applicant for a tree removal permit shall indicate how protected trees may be saved.

4. Nonresidential Developments: All areas within public rights-of-way, public utility or drainage easements as shown on an approved final plat, and the fire lanes, parking areas, and areas within twelve feet (12') of a building foundation as shown on an approved site plan shall be exempt from the tree protection and replacement requirements specified herein. All other areas shall be subject to these requirements.

5. Private Property:

- a) Agricultural: Property zoned "A", agricultural as shown on the City's Zoning Map and being actively used for agricultural purposes shall be exempt from the

3. A tree removal application may be denied if the removal is not in the public interest. This decision must be based on the following factors:

- a) The feasibility of relocating a proposed improvement that would require the removal or serious injury of the tree.
- b) Whether the lot or tract would comply with this article after the removal or serious injury.
- c) Whether the removal or serious injury is contrary to the public health, safety, or welfare.
- d) The impact of the removal or serious injury on the urban and natural environment.
- e) Whether an economically viable use of the property will exist if the application is denied.
- f) Whether the tree is worthy of preservation.
- g) Whether the tree is diseased or has a short remaining life expectancy.
- h) The effect of the removal or serious injury on erosion, soil moisture retention, flow of surface waters, and drainage systems.
- i) The need for buffering of residential areas from the noise, glare, and visual effects of nonresidential uses.
- j) Whether a landscape plan has been approved by the city planning & zoning commission, or city council.
- k) Whether the tree interferes with a utility service.
- l) Whether the tree is near existing or proposed structures.
- m) Whether the proposed mitigation for tree removal or serious injury is sufficient.

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within twelve inches (12") of the building foundation as shown on an approved
plan shall be exempt from the tree protection and replacement requirements of
this section. All other areas of the lot shall be subject to these requirements.

D. Exemptions.

1. Any franchised utility is exempt from these regulations.

E. Permit Review and Approval Process.

1. Authority of Review and Approval: The Administrative Official shall be responsible for the review and approval of all requests for tree removal permits and replacements thereof. If the Administrative Official deems it necessary, he/she may require an application to be reviewed by the City Council.
2. Application Process: Permits for removal or replacement of trees covered herein shall be obtained by making application on a form provided by the City, to the Administrative Official. The application shall be accompanied by a site plan, a preliminary plat or other graphic representation showing the exact location, size (trunk diameter and height), and common name of all protected trees and an indication of which trees are to be removed or replaced.

3. Fees: The application shall be accompanied by the appropriate fee, according to the fee schedule of the City of Joshua.
4. Replacement Trees: If any Replacement Tree cannot be properly located on the property being developed or redeveloped, the applicant may plant these Replacement Tree(s) on property owned by the City and/or common open space and/or pay a fee in lieu of tree replacement.
5. Payment in Lieu of Tree Replacement
 - a) A land owner or developer responsible for tree replacement under this Section may elect to meet the requirements in whole or in part, by a cash payment in lieu of tree replacement. The payment shall be on a caliper inch unit cost as established by the City Council in the latest approved Fee Schedule. Cash payment shall be deposited in the tree fund and be used to purchase and install landscaping (inclusive of trees, bushes, shrubs, mulch, soil, decorative rocks or stones, irrigation and necessary hardscape) at city parks, city tree farm, or other public areas.
 - b) The applicant shall pay the ^{permit fee} fees for tree removal established by City Council as established in the latest approved Fee Schedule. ~~The fee shall be based on the fair market value of materials and labor at the time of planting and the reasonable estimated cost for maintenance and irrigation for a period of two years.~~
 - c) Fees contributed to the tree fund shall be paid prior to the issuance of a grading permit on all commercial, industrial, or multi-family residential developments, prior to final approval of a gas well drilling permit and prior to filing a final plat in the Johnson County clerk's office for all single-family residential subdivisions."

d) The penalty for removing or damaging protected trees without an approved permit shall be based on a caliper inch unit cost as established by the City Council in the latest approved Fee Schedule.

Required Application.

The application shall be accompanied by a written document indicating the reasons for removal or replacement of trees and a copy of a legible site plan, preliminary plat, or other graphic representation drawn to the largest practical scale showing the following:

1. Location of existing or proposed structures, improvements, and site uses, properly dimensioned and referenced to property lines, setback and yard requirements.
2. Existing and proposed site elevations, grades and major contours.
3. Location of existing or proposed utility easements. ^{and drainage}
4. Location of all protected trees on the site, to be removed or replaced as well as all trees to be protected.