

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.

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

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

C. **Tree** Removal Permit.

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 requirements specified herein.
 - b) Homeowners: The owner of a residence who uses the residence as his/her homestead shall be exempt from the **tree** protection and replacement requirements of this section as they pertain to his/her residential property.
 - c) Building/Contractors: All builders who have not submitted a request for a building permit as of the effective date of this article are subject to the requirements herein. All areas within the driveway, sidewalks, patios, septic tank and lateral lines, parking area, pool, and associated deck area and area 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 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 multifamily 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.

F. 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.
4. Location of all protected trees on the site, to be removed or replaced as well as all trees to be protected.
5. The document shall include street address, lot and block, subdivision name, and date of preparation. The site plan shall state the name, address, and telephone number of the owner and person preparing the document if different from the applicant.

G. Applicant Review. Upon receipt of the proper application, the Administrative Official shall review the application, or if it is deemed necessary, forward the application to the City Council. Following a review and inspection, the permit will be approved, disapproved, or may be approved with conditions by the Administrative Official or the City Council.

H. Permit Expirations. Permits shall be valid for ninety (90) days after the issue date on the permit. Permits which are issued in conjunction with a building permit or a site plan approval, shall be valid for the same time frame as such permits are valid.

I. Appeal of Administrative Official Decision. Decisions of the Administrative Official may be appealed to the City Council.

J. **Tree** Replacement Requirements. If it is necessary to remove protected **tree(s)** outside the buildable area, the developer, as a condition to issuance of a **tree** removal permit, shall be required to replace, somewhere on the property, the **tree(s)** being removed with comparable trees. 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.

K. **Tree** Protection.

1. **Tree** Protection: During any construction or land development, the developer shall clearly mark those trees to be protected and may be required by the Administrative Official to erect "Protective Fencing - In those situations where a protected **tree** is so close to the construction area that construction equipment might infringe on the root system or is within twenty feet (20') of the construction area, a protective fencing shall be required between the outer limits of the critical root zone of the **tree** and the construction activity area. Four feet (4') high protective fencing shall be supported at a maximum of ten feet (10') intervals by approved methods. All protective fencing shall be in place prior to commencement of any site work and remain in place until all exterior work has been completed. Bark Protection - In situations where a protected **tree** remains in the immediate area of intended construction, the **tree** shall be protected by enclosing the entire circumference of the **tree** with 2" x 4" lumber encircled with wire or other means that do not damage the **tree**. The intent here is to protect the bark of the **tree** against incidental contact by construction equipment." protective barriers to ensure protection of said trees. The protective barriers must be maintained during all construction until the project is finished.

2. Material and Equipment Storage: The developer shall not store any material or equipment within the critical root zone of a protected **tree**. During the construction stage of the development, no cleaning or storage of equipment or material shall be allowed within the drip line of a protected **tree** or under the canopy of the **tree**. Materials include but are not limited to oils, paint, solvents, mortar, asphalt, and concrete.

3. Signs: No signs, wires, or other attachments except protective barriers shall be attached to the protected trees.

4. Traffic: No vehicular traffic, construction equipment traffic, or parking shall take place within the critical root zone of a protected tree other than on an existing street pavement. This restriction does not apply to single incident access for purposes of clearing underbrush, establishing the building pad and associated lot grading, or vehicular traffic necessary for routine utility maintenance, emergency restoration of utility service or routine moving operations.
5. Grade: No grade change in excess of four inches (4") shall be allowed within the limits of the critical root zone of any protected tree unless adequate construction methods are approved by the Administrative Official beforehand.
6. Paving: No impervious paving with asphalt or concrete shall be placed within the critical root zone of a protected tree.

L. Tree Planting Restrictions.

1. Overhead Lines: No required replacement tree shall be planted within an area where the mature canopy of the tree will interfere with overhead utility lines.
2. Underground Lines: No required replacement tree shall be planted within an area where the mature root zone of the tree will interfere with underground public utility lines. No tree shall be planted within ten feet (10') of a fire hydrant.

M. Enforcement.

1. Developers Agreement: No developer agreement shall be approved unless the agreement states that all construction activities shall meet the requirements of this section.
2. Building Permit: No building permit shall be issued unless the applicant signs a permit application which states that all construction activities shall meet the requirements of this section.

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