

Tree Ordinance Meeting History

10/17/2018 – Regular Council Meeting

9.18 DISCUSSION AND POSSIBLE ACTION REGARDING A TREE CANOPY MANAGEMENT ORDINANCE. (CM Pattillo/CM Hundley)

11/28/2018 – Regular Council Meeting

10.02 DISCUSSION AND POSSIBLE ACTION TO APPROVE A NEW CITY ORDINANCE REGARDING TREE CANOPY MANAGEMENT. (CM Pattillo/CM Hundley)

12/19/2018 – Regular Council Meeting

4.01 OPEN PUBLIC HEARING - To adopt a new city ordinance regarding Tree Canopy Management in the City. (CM Pattillo/CM Hundley)

02/20/2019 – Regular Council Meeting

4.01 OPEN PUBLIC HEARING – To adopt a new City ordinance regarding Tree Canopy Management in the City. (CM Pattillo/CM Hundley)

4/17/2019 – Regular Council Meeting

8.02 DISCUSSION AND POSSIBLE ACTION REGARDING REVIEW OF THE TREE CANOPY ORDINANCE AND ADOPTION OF AN AMENDMENT TO 3.05.002(E). (Recommended by City Attorney)
7.02 DISCUSSION AND POSSIBLE ACTION TO APPROVE AMENDMENTS TO ARTICLE 3.05 AND TO ADOPT A TREE PERMIT APPLICATION, TREE PERMIT, GOOD NEIGHBOR PLANTING CONSENT FORM, TREE CANOPY ORDINANCE FLOWCHART, AND TREE CANOPY ORDINANCE FEE SCHEDULE. (CM Pattillo/CM Hundley)

5/15/2019 - Regular Council Meeting

8.01 DISCUSSION AND POSSIBLE ACTION REGARDING AMENDMENTS TO THE TREE CANOPY ORDINANCE AND TO ADOPT AMENDMENTS THERETO.

08/21/2019 - Regular Council Meeting

5.05 PUBLIC HEARING – TO AMEND THE CITY’S CODE OF ORDINANCES BY MOVING THE LANDSCAPING REGULATIONS FROM SECTION 3.05 TO SECTION 14.02.131 AND REVISING THE DEFINITION OF DEVELOPMENT APPLICATION REQUIREMENTS TO INCLUDE A TREE SURVEY AND PROTECTION PLAN FROM A CERTIFIED ARBORIST. (Recommended by City Attorney)

11/06/2019 – Planning and Zoning Commission Meeting

5 - Public hearing regarding Subdivision 2, Residential Tree Canopy Management of the City's Code of Ordinances.
6 - Discussion regarding Subdivision 2, Residential Tree Canopy Management of the City's Code of Ordinances

2/05/2020 Planning and Zoning Commission Meeting

1 4 - Presentation and discussion on the Residential Tree Canopy Management Ordinance.
2 (Requested by P&Z)

3
4 **7/15/2020 – Regular Council Meeting**

5 19. Discussion and possible action to initiate a review by the Planning and Zoning Commission
6 of amendments to the Residential Tree Canopy Management Ordinance. (CM Pattillo/CM
7 Hundley)

8
9 **8/05/2020 – Planning and Zoning Commission Meeting**

10 4. Discussion and possible action on amendments to the Residential Tree Canopy Management
11 Ordinance.

12
13 **8/26/2020 – Regular Council Meeting**

14 16. Discussion and possible action to revise the tree canopy ordinance to require anyone cutting
15 down trees to have the approved permit on-site while removal is in progress and to provide a
16 copy of the permit to all adjoining property owners and those directly across an adjacent street.
17 (CM Hutson)

18
19 **9/02/2020 – Planning and Zoning Commission Meeting**

20 Agenda Item - 4. Discussion on amendments to the Residential Tree Canopy Management
21 Ordinance and possible action to set a public hearing for the October Planning and Zoning
22 Commission meeting.

1 **AMENDMENT Decisions**

2
3 (A) Adjustments in view of section numbering from the recodification; (CM Pattillo/CM
4 Hundley)

5
6 (B) Considering timing requirements in the ordinance in view of the what the City is learning
7 about timing requirements during the pandemic (CM Pattillo/CM Hundley)

8
9 (C) Considering waivers to replacement tree requirements for protected trees that are subject to
10 removal under oak wilt abatement and also where documented efforts have been made to try to
11 save a tree. (CM Pattillo/CM Hundley)

12 (C1) Replacement tree waiver conditions for documented efforts to save a tree

13 (C2) Replacement tree waiver for trees subject to removal under oak wilt abatement

14 (C3) Application fee waiver

15
16 (D) On property notice requirements (CM Hutson)

17
18 (E) Mailed notice requirements (CM **Hutson**)

Commented [AP1]: I included the language from the agenda item from CM Hutson.

19
20 (F) Critical root zone calculation clarification (Building Official Caylor)

21 (F1) Add formula for calculating the critical root zone and what qualifies as removal within the
22 critical root **zone**

Commented [AP2]: I made an attempt at this definition based on information about critical root zone calculations available online. Would appreciate comments from arborists.

23 (F2) Evaluate whether to maintain Section 107-375(i)(Root zone for neighbor trees) in view of
24 any amendments to the definition of critical root zone.

25
26 (G) Setback clarifications (CM Hundley)

27 - For discussion

28 - Resident question came in of how does one know what one's setbacks are if not in a
29 construction phase? Plat? Where does one get one's plat? The resident also asked what impact
30 the easements/right of way on a property have in determining whether a setback is within 107-
31 375(a) or (b). (CM Pattillo)

Commented [AP3]: I have not changed the language because I think the language is clear in 107-375, but am open to changes.

32
33 (H) Evaluation of tree types defined as protected species under 107-371(a) (Commissioner Nash)

34 - P&Z commission member request to evaluate removal of (4) Elm, Cedar from the list of
35 protected species.

36
37 (I) Evaluation of tree types defined as replacement species under 107-371(c)

38 - Resident request to evaluate the addition of the cherry laurel, a native species, to the list of
39 replacement species.

40
41 (J) Tree survey minimum size of trees (Building Official Caylor)

42
43 (K) Demo permit timing and encouragement to keep trees until a building permit is issued (CM
44 Hutson)

45 - Additional discussion requested. No amendments proposed below.

- 1 (L) Tree health maintenance if no house is built (Commissioner Robinette)
- 2 - Additional discussion requested. No amendments proposed below.
- 3
- 4 (M) Delayed time period for removal of tree after permit granted
- 5 - Resident request to evaluate allowing for a resident to apply for a permit to remove a tree that is
- 6 in decline in the future and plant the replacement trees now, but be allowed a 1-3 year period to
- 7 remove the tree.
- 8

1 Subdivision 2. - Residential Tree Canopy Management

2 Sec. 107-369. - Purpose.

3 (a) The tree code regulations protect the health, safety, and general welfare of the citizens of
4 the city. In doing so, the appearance of the city is enhanced and important ecological,
5 cultural, and economic resources are protected for the benefit of the city's residents,
6 businesses, and visitors.

7 (b) The sections within this subdivision address trees in both development and non-
8 development situations and seek to enhance the quality of the tree canopy and optimize the
9 benefits that trees provide.

10 (c) For development situations, additional requirements to this subdivision are designated in
11 107-376.

Commented [AP4]: Amendment (A)

Deleted: chapter 10 of this Code

12 (Ord. No. 2019-02-20(B), § 1(3.05.004), 2-20-2019; Ord. No. 2019-08-21(B), § 3, 8-21-2019)

13 Sec. 107-370. - Applicability.

14 This subdivision applies to property in the residential zoning district and to any other
15 property to which section 107-341 of this Code does not apply.

16 (Ord. No. 2019-02-20(B), § 1(3.05.005), 2-20-2019; Ord. No. 2019-08-21(B), § 3, 8-21-2019)

17 Sec. 107-371. - Definitions.

18 In this subdivision:

19 (a) *Protected species* means:

20 (1) Ash, Texas

21 (2) Cypress, Bald

22 (3) Elm, American

23 (4) Elm, Cedar

Commented [AP5]: Amendment (H), strike species

24 (5) Madrone, Texas

25 (6) Maple, Bigtooth

26 (7) All Oaks

27 (8) Pecan

28 (9) Walnut, Arizona

29 (10) Walnut, Eastern Black

30 (b) *Protected tree* means a tree that has a trunk with a diameter of 12 inches or more,
31 measured four and one-half feet above ground, and is one of the protected species;

32 (c) *Replacement species* means:

(1) For trees planted within 20 feet of an above-ground power, cable, or telephone line:

- a. Anacacho Orchid Tree
- b. Common Tree Senna
- c. Crape Myrtle (dwarf)
- d. Desert Willow
- e. Evergreen Sumac
- f. Eve's Necklace
- g. Flameleaf Sumac
- h. Goldenball Leadtree
- i. Mexican Buckeye
- j. Mexican Plum
- k. Possumhaw Holly
- l. Rough Leaf Dogwood
- m. Texas Mountain Laurel
- n. Texas Persimmon
- o. Texas Pistache
- p. Texas Redbud
- q. Wax Myrtle
- r. Yaupon Holly

s. Cherry Laurel

Commented [AP6]: Amendment (l)

(2) For all other trees planted within a property, a protected species.

(d) *Replacement tree* means:

- (1) For the replacement species listed in subsection (c)(1), a tree at least eight feet high when planted, which shall be maintained in a healthy condition after planting;
- (2) For the replacement species listed in subsection (c)(2), a tree with a diameter equal to not less than one-fourth the diameter of the protected tree it replaces up to a maximum diameter of six inches, which shall be maintained in a healthy condition after planting. The diameter of protected and replacement trees shall be measured four and one-half feet above the ground when planted.

(e) *Removal* means an act that causes or may be reasonably expected to cause a tree to die, including:

- (1) Uprooting;
- (2) Severing the main trunk;
- (3) Damaging the root system, including, but not limited to:

1 a. Adjusting the grading of a lot to cover or uncover a tree trunk or root system to the
2 extent that the adjusted grading causes or may be reasonably expected to cause the
3 tree to die; or

4 b. Placing fixtures over ~~more than 50% of the total~~ root system to the extent that the
5 placement of the fixtures causes or may be reasonable expected to cause the tree to
6 die.

Deleted: the

7 ~~For purposes of determining the total root system, the radius of the root system is~~
8 ~~assessed as within the area that is a number of feet in diameter from the outer edge of~~
9 ~~the tree trunk at four and one-half feet from the ground based on the ratio of one and a~~
10 ~~half feet for each inch of diameter of the tree trunk.~~

Commented [AP7]: Amendment (F1)

11 (4) Excessive pruning, including, but not limited to, pruning that exceeds 25 percent of
12 the canopy of the tree.

13 (f) *Certified arborist* means an ISA certified arborist.

14 (Ord. No. [2019-02-20\(B\)](#), § 1(3.05.006), 2-20-2019; Ord. No. [2019-08-21\(B\)](#), § 3, 8-21-2019)

15 Sec. 107-372. - Administration.

16 (a) A city arborist shall be appointed by the city council to assist in promulgating forms for
17 use under this subdivision and to decide all applications for removal of a protected tree.

18 (b) If an applicant requests a variance as permitted under this subdivision, the city arborist
19 shall direct the request to the city council and make a recommendation to the city council
20 whether to approve the variance request.

21 (c) The list of eligible protected tree species under subsection 107-371(a) and the list of
22 eligible replacement tree species under 107-371(c) may be supplemented by approval of the
23 city council, in consultation with the city arborist or as provided by subsection ~~(c)~~.

Commented [AP8]: Amendment (A)

Deleted: (g)

24 (d) An applicant may satisfy a tree replacement requirement by planting the required
25 replacement tree(s) on the property affected by the protected tree removal, or on one or more
26 other property(s) approved by the arborist or other designated agent of the city if:

27 (1) The benefit to residents of the city would be as great as replacement on the property
28 affected by the protected tree removal; and

29 (2) The owner(s) of such other property(s) agree in writing to maintain the replacement
30 trees in a healthy condition and replace same with like trees, as necessary as a result of a
31 death of such tree(s), for a period of not less than three years.

32 (e) For purposes of ~~subsections 107-372(c) and (d)~~ the city and the owner may consult with an
33 academic organization, state agency, nonprofit organization, or the city arborist to identify
34 an area for which tree planting will best address the science-based benefits of trees and other
35 reforestation needs of the municipality within and outside of the city limits.

Commented [AP9]: Amendment (A)

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36 (f) The city council shall provide for fees payable for review of applications for permits and
37 variances pursuant to this division.

38 (Ord. No. [2019-02-20\(B\)](#), § 1(3.05.007), 2-20-2019; Ord. No. [2019-08-21\(B\)](#), § 3, 8-21-2019)

1 Sec. 107-373. - Removal of protected trees.

2 (a) A person may not remove a protected tree without a tree removal permit for the removal
3 and compliance with the terms of this subdivision.

4 ~~(1) During removal of protected trees, the tree removal permit shall be displayed on the~~
5 ~~construction board for the site, if present, or otherwise be displayed on a sign within the first~~
6 ~~5 feet of the front yard setback.~~

Commented [AP10]: Amendment (D)

7 ~~(2) Prior to removal of protected trees, the permit recipient shall provide a copy of the tree~~
8 ~~removal permit to all adjoining property owners and those directly across an adjacent street.~~

Commented [AP11]: Amendment (E)

9

10 (b) Emergency pruning or removal. Notwithstanding subsection 107-373(a), a person may
11 perform emergency pruning or removal of a protected tree as follows:

12 (1) When the condition or location of a protected tree presents a clear and immediate
13 danger to a structure or to the health and safety of the public, the hazardous portion of
14 the protected tree may be removed without first obtaining a required tree removal
15 permit.

16 (2) In the course of performing emergency repairs to a road or water, wastewater, or
17 drainage facilities, agents or contractors of the city may trim, prune or remove a
18 protected tree as required to perform such work without first obtaining a tree removal
19 permit. If such activities occur during normal business hours, the city shall first attempt
20 to contact the city arborist to determine if the city arborist can provide immediate
21 guidance and assistance. If such assistance is not immediately available, then the
22 pruning or removal may occur in accordance with the requirements under chapter 18,
23 article V of this Code.

24 (3) Any person who prunes or removes a protected tree under the provisions of this
25 subsection shall, within ~~fourteen (14) days of such action or as soon as practicable if~~
26 ~~there is a coinciding declaration of a state of emergency in the City,~~ apply for a tree
27 removal permit providing for replacement trees as required by this subdivision. The
28 application shall include photographs or other documentation to demonstrate the
29 requisite clear and immediate danger. The city arborist will evaluate the information to
30 determine whether a clear and immediate danger existed. A failure to submit an
31 application or a failure to submit information demonstrating the clear and immediate
32 danger shall constitute a violation of this subdivision.

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Commented [AP12]: Amendment (B)

33 (c) The requirements of this subdivision apply to trees on public and private property. To the
34 extent of conflict with another section of the Code, this subdivision applies.

35

36 ~~(Ord. No. 2019-02-20(B), § 1(3.05.008), 2-20-2019; Ord. No. 2019-08-21(B), § 3, 8-21-2019)~~

Deleted: ¶

37 Sec. 107-374. - Application for protected tree removal and tree removal permits.

38 (a) An applicant may request a tree removal permit application from the city by phone, U.S.
39 mail, fax, email or in person.

(b) An application for removal of a protected tree located on public property, a right-of-way or a public easement may be submitted by:

(1) An agent of the city, a public utility, or another political subdivision with the authority to install the public facilities and perform the work necessitating the removal of the protected tree; or

(2) The owner of the property adjoining the site of the protected tree.

(c) An application for removal of a protected tree on private property may be submitted by or on behalf of the owner of the property on which the tree is located.

(d) An application for removal of one or more protected tree(s) must be submitted to the city secretary and approved prior to removal of the protected tree. If the application is approved as provided for in this subdivision, a permit shall be issued indicating each protected tree that is approved for removal and indicating the location(s) and size(s) of any required replacement trees and the dates by which replacement trees must be planted.

(e) An application that proposes removal of a protected tree shall include the required permit application fee.

(f) An application for removal of a protected tree shall include any proposal for type(s) and location(s) of replacement trees on a site plan of affected property(s).

(g) A permit for removal of a protected tree expires one year after its effective date except that if any building permit issued for the associated property expires or is revoked for any reason, the permit for removal of a tree shall expire as well. Subject to applicable expiration, a permit for removal of tree(s) is transferable to a subsequent owner of the affected property, provided that any obligation in the permit with respect to replacement trees is assumed by the transferee.

(h) The removal of a protected tree permitted under a tree removal permit must be completed within one (1) year from the date of issuance of the tree removal permit.

Commented [AP13]: Amendment (M)

(Ord. No. [2019-02-20\(B\)](#), § 1(3.05.009), 2-20-2019; Ord. No. [2019-08-21\(B\)](#), § 3, 8-21-2019)

Sec. 107-375. - Conditions for approval.

(a) If the protected tree is located within a setback area and the total width of the setback area is greater than ten feet from the edge of a property, the protected tree shall be replaced with a total of three replacement trees that may include a selection of replacement trees under subsections 107-371(d)(1) and (d)(2), and shall include at least one replacement trees under subsection 107-371(d)(2).

(b) If the protected tree is not located within an area specified in subsection 107-374(a), the protected tree shall be replaced by one replacement tree under either subsection 107-371(d)(1) or subsection 107-371(d)(2).

(c) If the protected tree trunk straddles an area specified in subsection 107-374(a), the protected tree is deemed to be in the area specified in subsection 107-374(a) if more than half of the diameter of the tree is within the area specified in subsection 107-374(a).

1 (d) If the city arborist determines under subsection 107-373(b)(3) that an emergency existed at
2 the time of removal that necessitated expedited removal or an applicant provides
3 documentation from a certified arborist that a protected tree is diseased, dead, or poses an
4 imminent or immediate threat to persons or property due to natural causes only and the
5 protected tree falls under subsection 107-375(a), the city arborist may reduce the
6 replacement tree requirement to one replacement tree under either subsection 107-371(d)(1)
7 or subsection 107-371(d)(2).

Commented [AP14]: Amendment (A)

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8 (e) If the city arborist determines that an applicant provides sufficient documentation from a
9 certified arborist that a protected tree is diseased, dead, or poses an imminent or immediate threat
10 to persons or property due to natural causes only, and also not as a result of intentional
11 bleaching, root cutting, or pruning more than 25% of the canopy, and that the certified arborist
12 has documented at least two prior actions performed by the certified arborist within the previous
13 three years to mitigate the condition, the city arborist may waive the replacement tree
14 requirement for the protected tree and waive the tree replacement application fee.

Commented [AP15]: Amendment (C1)

Commented [AP16]: Amendment (C3)

15 (f) If a protected tree is required to be removed under section 18-209, the city arborist may
16 waive the replacement tree requirement for the protected tree, and waive the tree replacement
17 application fee.

Commented [AP17]: Amendment (C2)

Commented [AP18]: Amendment (C3)

18
19 (g) The mayor may act to waive the replacement tree requirement under this subsection for a
20 storm event, wildfire or other calamity that causes widespread or costly damage to multiple
21 protected trees throughout the city.

Commented [AP19]: Amendment of letter to reflect additional selections

Commented [AP20]: Amendment (A)

Deleted: d

Deleted: 107-374(d)

22 (h) For a permit filed with an application for development of any improvements or structures,
23 if the density of protected trees in an area described in subsection 107-374(b) is greater than
24 seven protected trees, the number of replacement trees required under subsection 107-374(b)
25 for a removal from such area is capped at seven replacement trees, at least three of which
26 shall meet the requirements of subsection 107-371(d)(2).

Commented [AP21]: Amendment of letter to reflect additional selections

Deleted: e

27 (i) If a protected tree has a trunk on a first property and roots and canopy that extend into a
28 second property, the owner of the second property is required to obtain a tree removal
29 permit for removal of the protected tree prior to performing any actions that constitute
30 removal under subsection 107-371(f) on the second property. For purposes of determining
31 removal under this subsection for 107-371(f), damage to the root system is assessed within
32 the area that is a number of feet in diameter from the outer edge of the tree trunk at four and
33 one-half feet from the ground based on a ratio of one foot for each inch of diameter of the
34 tree trunk. If the actions by the owner of the second property as to the protected tree trigger a
35 requirement for the owner of the first property to apply for a tree removal permit for the
36 protected tree, the application review fee as to the protected tree on the first property is
37 waived.

Commented [AP22]: Amendment of letter to reflect additional selections

Deleted: f

38 (Ord. No. [2019-02-20\(B\)](#), § 1(3.05.009), 2-20-2019; Ord. No. [2019-08-21\(B\)](#), § 3, 8-21-2019)

39 Sec. 107-376. - Development application requirements.

Commented [AP23]: Amendment (J)

(a) An application for a building permit must:

- (1) Include a tree survey and protection plan of all existing trees on the property that are at least 6 inches in diameter measured four and one-half feet above the ground;
- (2) Include a grading and tree protection plan for protecting all protected trees that are not approved for removal;
- (3) Demonstrate that the design will preserve the existing natural character of the landscape as to any protected trees not approved for removal; and
- (4) Include a tree removal permit application with required fees for review of each proposed removal of a protected tree.

(b) The building official may not release or renew a building permit until the city arborist issues a tree removal permit for each protected tree proposed to be removed.

(Ord. No. [2019-02-20\(B\)](#), § 1(3.05.010), 2-20-2019; Ord. No. [2019-08-21\(B\)](#), § 3, 8-21-2019)

Sec. 107-377. - Administrative variance.

(a) The city council may grant an administrative variance from the requirements of this division if the city council determines by a simple majority that owing to special conditions pertaining to the affected property, literal enforcement of the provisions of this division will result in unnecessary hardship, and the granting of the variance will not be contrary to the public interest.

(b) In considering any proposed variance, the following rules shall be observed:

- (1) The applicant for the variance must present to the city council a set of plans prepared by a certified arborist setting out the applicant's proposal and the nature of the proposed variance;
- (2) The proposed variance may not unreasonably affect any adjoining property or the general welfare of the community; and
- (3) The city council must find that the applicant did not create the condition necessitating the variance.

(c) If the city council grants a variance under this subdivision, the city arborist may issue a tree removal permit with terms consistent with any terms and conditions of the granted variance.

(Ord. No. [2019-02-20\(B\)](#), § 1(3.05.011), 2-20-2019; Ord. No. [2019-08-21\(B\)](#), § 3, 8-21-2019)

Sec. 107-378. - Replacement procedure.

(a) Whenever replacement trees are required by the terms of this subdivision, the owner shall submit to the city arborist for approval a replacement site plan showing the locations, species and sizes of all replacement trees and vegetation for final approval by the city arborist. If during installation, the owner is unable to conform to the approved replacement site plan because conformance is not feasible due to subsurface conditions that could not reasonably have been foreseen that make the viability of the tree in the planned location

1 unlikely, then the owner must submit an amended site plan to the city arborist within seven
2 days of the discovery of unforeseen subsurface conditions for approval by the city arborist.
3 An amended site plan must provide for no fewer replacement trees or cumulative size of
4 replacement trees than provided in the originally approved replacement plan.

5 (b) Installation of the replacement trees must be completed within the time period designated
6 by the city arborist in the tree removal permit, however, in no event will the time period be
7 longer than one year, however this time period is abated while a property is under
8 construction where replacement trees are required.

9 (c) The owner shall notify the city arborist upon completion of the installation. If more than
10 one protected tree has been replaced, the city arborist may then inspect for compliance with
11 the approved replacement plan.

12 (d) All replacement trees must survive at least three years. The city arborist may contact the
13 owner during this three year period to arrange for a site visit by the city arborist in order to
14 confirm the replacement trees have survived. Replacement trees that do not survive for three
15 years must be removed and replaced with similar species and sized trees.

16 (e) The owner of property from which the removal of one or more protected trees was
17 permitted shall arrange for the transferee(s) of such property to submit to the city secretary a
18 written transfer to and assumption by such transferee(s) of the permit and all obligations of
19 such permit with respect to required replacement trees, if all such obligations have not been
20 satisfied at the time of transfer of the property.

21 (Ord. No. [2019-02-20\(B\)](#)), § 1(3.05.013), 2-20-2019; Ord. No. [2019-08-21\(B\)](#)), § 3, 8-21-2019)

22 Sec. 107-379. - Violations/penalties.

23 (a) It shall be an offense for a person:

24 (1) To fail to perform an act required by the provisions of this subdivision;

25 (2) To fail to timely comply with any term of a permit issued pursuant to this division,
26 including terms regarding the planting and maintenance of required replacement trees;

27 (3) To hire, engage, or permit any person engaged in the business tree planting,
28 maintenance, or removal to perform such services on property in the city without a
29 permit issued by the city pursuant to section 18-217 of this Code;

30 (4) Except as expressly allowed pursuant to this subdivision, to remove or to cause the
31 removal of a protected tree without first obtaining a permit therefor;

32 (5) To transfer property from which the removal of a protected tree has been permitted if
33 all obligations with respect to replacement trees pursuant to the permit for such removal
34 are not then fulfilled unless the transferee of the property agrees in a writing submitted
35 to the city secretary to assume such permit and all obligations with respect to the
36 planting and maintenance of required replacement trees;

37 (6) To fail to submit an application for a permit as required pursuant to subsection (b) of
38 this section or pursuant to subsection 107-373(b)(3); or

(7) To fail to submit photographs or other documentation to demonstrate a requisite clear and immediate danger pursuant to subsection 107-373(b)(3) in connection with an unpermitted removal of a protect tree.

(b) An offense shall constitute a Class C misdemeanor punishable by a fine not to exceed \$500.00. An offense committed intentionally, knowingly, recklessly, or with criminal negligence shall be punishable by a fine not to exceed \$2000.00 per offense. Each protected tree removed in violation of this division shall constitute a separate offense, and a failure to plant and maintain each replacement tree shall constitute a separate offense. Each day a violation continues shall constitute a separate offense.

(c) The owner of affected property and each person who causes or directs another person to remove a protected tree without a permit shall immediately submit an application for a permit pursuant to this subdivision, including a proposal for the provision of replacement tree(s) in compliance with this subdivision.

(d) The building official shall issue a stop work order in connection with any permitted development of the property from which a protected tree is removed upon the occurrence of a violation of this subdivision or any term of a permit issued pursuant to this subdivision.

(e) No certificate of occupancy shall be issued for a building or other structure that is not then in compliance with any permit issued pursuant to this subdivision for removal of a protected tree.

(Ord. No. [2019-02-20\(B\)](#), § 1(3.05.014), 2-20-2019; Ord. No. [2019-08-21\(B\)](#), § 3, 8-21-2019)

Sec. 107-380. - Requirements for conduct of tree removal businesses.

Any person engaged in the business of tree maintenance by pruning, trimming, or removing of trees in the city, whether a tree trimming business or a demolition business, shall comply with all applicable provisions of this subdivision and shall secure an annual permit to do so from the city secretary.

(Ord. No. [2019-02-20\(B\)](#), § 1(3.05.015), 2-20-2019; Ord. No. [2019-08-21\(B\)](#), § 3, 8-21-2019)

Secs. 107-381—107-396. - Reserved.