



NOTICE OF A MEETING

(In compliance with Sec. 551.041, Et. Seq., Tex. Gov't. Code)

Notice is hereby given of a City of Jersey Village Planning and Zoning Commission Meeting to be held on Monday, November 9, 2020, at 6:00 p.m. via videoconferencing. All agenda items are subject to action. The Capital Improvements Advisory Committee reserves the right to meet in closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

Pursuant to Section 418.016 of the Texas Government Code, on March 16, 2020, the Governor of the State of Texas granted the Office of the Attorney General's request for the temporary suspension of certain provisions of the Texas Open Meetings Act to allow for telephonic or videoconference meetings of governmental bodies that are accessible to the public in an effort to reduce in-person meetings that assemble large groups of people, as a precautionary measure to contain the spread of novel coronavirus COVID-19.

Accordingly, the public will not be allowed to be physically present at this meeting of the City of Jersey Village Planning and Zoning Commission, but the meeting will be available to members of the public and allow for two-way communications for those desiring to participate via telephone. To attend the meeting via telephone, please use the following toll-free number:

346-248-7799 along with Webinar ID: 824 2420 7579.

Any person interested in speaking during the public comment item on the agenda must submit his/her request via email to the City Secretary at lcoody@jerseyvillagetx.com. The request must include the speaker's name, address, topic of the comment and the phone number that will be used for teleconferencing. The request must be received no later than 12:00 p.m. on November 9, 2020.

The following will be observed by the public participating in the meeting:

- Callers will be called upon to speak by the Committee Chairperson.
- Once called upon for public comment, speakers should state their name and address before speaking.
- Callers will mute their phone unless called upon to speak (*to eliminate background noise*).
- Callers should use handsets rather than speakerphone whenever possible.

The agenda packet is accessible to the public at the following link: https://www.jerseyvillagetx.com/page/pz.ags_mins_current_year.

For more information or questions concerning the teleconference, please contact the City Secretary at 713-466-2102. The agenda items for this meeting are as follows:

A quorum of the City of Jersey Village City Council may be in attendance at this meeting.

ITEM(S) to be discussed and acted upon by the Committee are listed on the attached agenda.

AGENDA

- A. Open Meeting. Call the meeting to order and the roll of appointed officers will be taken. *Rick Faircloth, Chairperson*
- B. **CITIZENS' COMMENTS** - Any person who desires to address the Planning and Zoning Commission regarding an item on the agenda will be heard at this time. In compliance with

the Texas Open Meetings Act, unless the subject matter of the comment is on the agenda, the City staff and Commissioners are not allowed to discuss the subject. Each person is limited to five (5) minutes for comments to the Planning and Zoning Commission.

- C. Election of chairperson and vice-chairperson for one-year term. *Rick Faircloth, Chairman*
- D. Consider approval of the minutes for the meeting held on November 4, 2019. *Lorri Coody, City Secretary*
- E. Discuss and take appropriate action regarding the creation of a more stringent tree preservation ordinance to protect existing tree resources. *Austin Bless, City Manager*
- F. Adjourn

CERTIFICATION

I, the undersigned authority, do hereby certify in accordance with the Texas Open Meeting Act, the Agenda is posted for public information, at all times, for at least 72 hours preceding the scheduled time of the meeting on the bulletin board located at City Hall, 16327 Lakeview, Jersey Village, TX 77040, a place convenient and readily accessible to the general public at all times, and said Notice was posted on the following date and time: November 4, 2020 at 9:00 a.m. and remained so posted until said meeting was convened.

Lorri Coody, City Secretary

In compliance with the Americans with Disabilities Act, the City of Jersey Village will provide for reasonable accommodations for persons attending City Council meetings. Request for accommodations must be made to the City Secretary by calling 713 466-2102 forty-eight (48) hours prior to the meetings. Agendas are posted on the Internet Website at www.jerseyvillagetx.com

"Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun."

"Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly."



- B. CITIZENS' COMMENTS** - Any person who desires to address the Capital Improvements Advisory Committee regarding an item on the agenda will be heard at this time. In compliance with the Texas Open Meetings Act, unless the subject matter of the comment is on the agenda, the City staff and Committee Members are not allowed to discuss the subject. Each person is limited to five (5) minutes for comments to the Capital Improvements Advisory Committee.

**PLANNING AND ZONING COMMISSION
CITY OF JERSEY VILLAGE, TEXAS
AGENDA REQUEST**

AGENDA DATE: November 9, 2020

AGENDA ITEM: C

AGENDA SUBJECT: Election of chairperson and vice-chairperson for one-year term.

Department/Prepared By: Lorri Coody

Date Submitted: October 13, 2020

EXHIBITS: None

BUDGETARY IMPACT: None

CITY MANAGER APPROVAL:

BACKGROUND INFORMATION:

In accordance with the City of Jersey Village Code of Ordinance Section 14-21(b) the commission shall elect a chairperson and vice-chairperson at the first regularly scheduled meeting after the October appointments who shall serve for a period of one year.

According to November 4, 2019 meeting minutes, Rick Faircloth was elected to a one-year term as chairperson, beginning October 1, 2019 and ending September 30, 2020; and Joseph Paul was elected to a one-year term as vice-chairperson, beginning October 1, 2019 and ending September 30, 2020.

RECOMMENDED ACTION:

Elect Officers

**MINUTES OF THE MEETING OF THE JERSEY VILLAGE
PLANNING AND ZONING COMMISSION**

November 4, 2019 – 6:00 p.m.

THE PLANNING AND ZONING COMMISSION OF THE CITY OF JERSEY VILLAGE, TEXAS, CONVENED ON NOVEMBER 4, 2019 AT 6:00 P.M. IN THE CIVIC CENTER, 16327 LAKEVIEW DRIVE, JERSEY VILLAGE, TEXAS.

A. The meeting was called to order in at 6:00 p.m. and the roll of appointed officers was taken. Commissioners present were:

Rick Faircloth, Chairman	Courtney Standlee, Commissioner
Debra Mergel, Vice Chairman	Ty Camp, Commissioner
Joseph Paul, Commissioner	Jennifer McCrea, Commissioner

Commissioner Barbara Freeman was not present at this meeting.

Drew Wasson, Council Liaison, was not present at this meeting.

Staff in attendance: Lorri Coody, City Secretary; and Harry Ward, Director of Public Works.

B. CITIZENS' COMMENTS - Any person who desires to address the Planning and Zoning Commission regarding an item on the agenda will be heard at this time. In compliance with the Texas Open Meetings Act, unless the subject matter of the comment is on the agenda, the City staff and Commissioners are not allowed to discuss the subject. Each person is limited to five (5) minutes for comments to the Planning and Zoning Commission.

There were no citizens' comments.

C. Election of chairperson and vice-chairperson for one-year term.

Chairman Faircloth opened nominations for the office of Chair for a one-year term beginning October 1, 2019 and ending September 30, 2020. Commissioner Paul moved to nominate Commissioner Rick Faircloth to serve in this capacity. The motion was seconded by Commissioner McCrea. With no other nominations being made, the vote follows:

Ayes: Commissioners Mergel, Paul, Standlee, Camp, and McCrea
Chairman Faircloth

Nays: None

The motion carried.

Chairman Faircloth opened nominations for the office of Vice Chair for a one-year term beginning October 1, 2019 and ending September 30, 2020. Commissioner Camp moved to nominate Commissioner Paul. The motion was seconded by Commissioner Mergel. With no other nominations being made, the vote follows:

Ayes: Commissioners Paul, Mergel, Standlee, Camp, and McCrea
Chairman Faircloth

Nays: None

PLANNING AND ZONING COMMISSION MEETING PACKET FOR THE MEETING TO BE HELD ON NOVEMBER 9, 2020

The motion carried.

D. Consider approval of the minutes for the meeting held on July 15, 2019.

Commissioner McCrea moved to approve the minutes for the meeting held on July 15, 2019. Commissioner Camp seconded the motion. The vote follows:

Ayes: Commissioners Mergel, Paul, Standlee, Camp, and McCrea
Chairman Faircloth

Nays: None

The motion carried.

E. Adjourn

There being no further business on the Agenda the meeting was adjourned at 6:03 p.m.

Lorri Coody, City Secretary



DRAFT

**PLANNING AND ZONING COMMISSION - CITY OF JERSEY VILLAGE, TEXAS
AGENDA REQUEST**

AGENDA DATE: November 9, 2020

AGENDA ITEM: E

AGENDA SUBJECT: Discuss and take appropriate action regarding the creation of a more stringent tree preservation ordinance to protect existing tree resources.

Dept/Prepared By: Austin Bless, City Manager **Date Submitted:** October 12, 2020

EXHIBITS: [Chapter 7](#) – Community Character – From 2016 Comprehensive Plan
Jersey Village Code of Ordinances - [Chapter 14 Article XII](#). - Landscaping,
Bufferyard, Park and Open Space Standards
[Tree Preservation Ordinances – Other Cities](#)

- Alamo Heights
- Colleyville
- Hillshire Village
- Hunters Creek Village
- League City
- The Colony
- Weatherford
- West Lake Hills

BACKGROUND INFORMATION:

As part of the 2016 Comprehensive Plan one of the recommendations in the Community Character Chapter was to consider a more stringent tree preservation ordinance to protect existing tree resources.

Our current ordinance has little in it to protect trees. The ordinance that most closely touches on this is Section 14-316:

Sec. 14-316. - Permit required.

(a) No person shall remove a healthy protected tree in the front yard of a residential property without first obtaining a permit from the director of public works.

(b) The fee for a permit to remove a protected tree shall be \$50.00. The tree shall be replaced with a tree or trees with a combined diameter of one inch for each six inches and fraction thereof of replaced tree diameter (measured at four feet off the ground). Replacement trees must be at least one inch in diameter measured at four feet off the ground. The director of public works may authorize that one or more of the replacement trees be planted in designated locations on public property. No replacement tree shall be required if the property has at least two other large protected trees in the front yard.

Tree preservation ordinances can cover a wide gambit of things. They can require pruning and how pruning is done, designation of tree types and tree sizes that must be preserved, and how many trees need to be planted to replace any tree that is taken down.

RECOMMENDED ACTION:

There is no formal action required tonight, we just need direction from the Commission as to what direction to take so we can draft a model ordinance and bring it back.



Community Character

7

Overview

Jersey Village has a unique history in northwest Houston having been incorporated in 1956 and establishing itself as one of the stable, attractive communities in the area. In the mid 80's Highway 290 ended at Gessner Road with a stop sign and very little development occurred along the Hwy 290 corridor past Jones Road. As the northwest continued to grow beyond the city the edges and entrances that once defined the city began to become 'blurred' by this development (see [Figure 7.1, Existing Jersey Village Land Use](#)).

This section addresses the less tangible aspect of community character. Community character is less quantifiable than other aspects of the comprehensive plan such as parks and open spaces, but it is equally important to the vitality of the community. Community character can be defined as the combined effect of the built environment, history, demographic, and social context within a neighborhood. It encompasses the physical built environment and social attributes that make one neighborhood different from another. This chapter introduces two planning concepts, "wayfinding" and "sense of place" and how these are important to the City of Jersey Village.

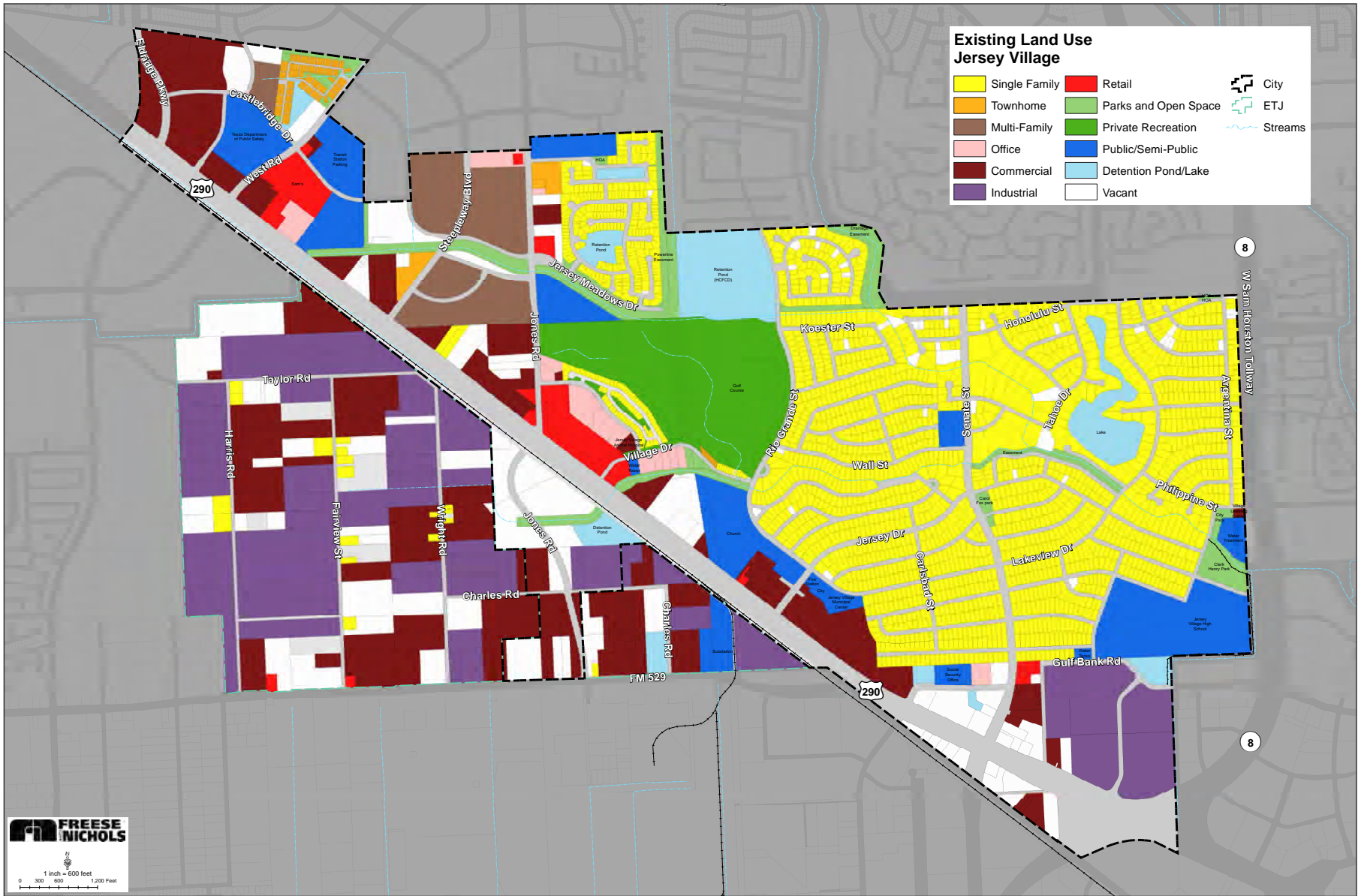


Figure 7.1, Existing Jersey Village Land Use

Wayfinding and Sense of Place

Describing, let alone trying to improve upon, a community's character is a difficult task. Communities all have a certain feel about them. Certain communities you know when you have arrived without having to see a sign and others you might pass right through without even knowing you were there. When you visit a community you receive visual cues from the built environment, many of which are not even aware of. These visual cues help shape your view of what you see and experience. It can be the building architecture, the types of materials, and the age of the buildings. Street could be nicely landscaped or just concreted over. There could be traffic jams on crowded, boulevard streets, or there could be light traffic on a smaller street with lots of pedestrian wandering about in small boutique shops. All of these visual cues, and much more, together suggest a "Sense of Place" (The term is widely attributed to author Kevin Lynch in his 1960 book, "The Image of the City"). These visual cues are collectively called "wayfinding". Kevin Lynch defines wayfinding further by defining it as "...a consistent use and organization of definite sensory cues from the external environment." More simply explained, anything in built environment that you see, hear, smell, can touch, or experience (see [Fig 7.2, Examples of Wayfinding Components](#), on the following page) The physical environment can influence how we feel about ourselves, our community, and our surroundings. Wayfinding elements can evoke positive or they can just as easily give off negative feelings. This is what makes a discussion about community character a very subjective endeavor that is very much rooted in a community's history, culture, and expectations.

Regional development can affect a community's character in a positive or negative way depending on the manner in which the growth occurs. Factors such as architectural style, building

development, freeway expansion, streetscape, buffers, scale, and accessibility can all influence whether development is distinctive and build on the community's character, or lack authenticity or are out of character.

Summary of Community Character Issues

During the development of this Comprehensive Plan, CPAC and citizens comments created goals action items related to community character. The participants of the public process helped to shape a distinct series of themes that were important to them. The themes, described below, en-summary the community's understanding of the important aspects of wayfinding that are important to the future of Jersey Village.

The following description elaborates on those themes:

- Improved Gateways, Entrances, and Wayfinding Signage
 - » Reinforcement of the entrances into the City of Jersey Village.
- Freeway Corridor Landscaping
 - » The freeway edges of Highway 290 and Beltway 8 are considered important to improving the character of the community and to better define the 'edges' of the city.
- Community Landscaping
 - » Many residents feel that the streets and open spaces should be well landscaped and brought up to the quality that is found along Senate Street.

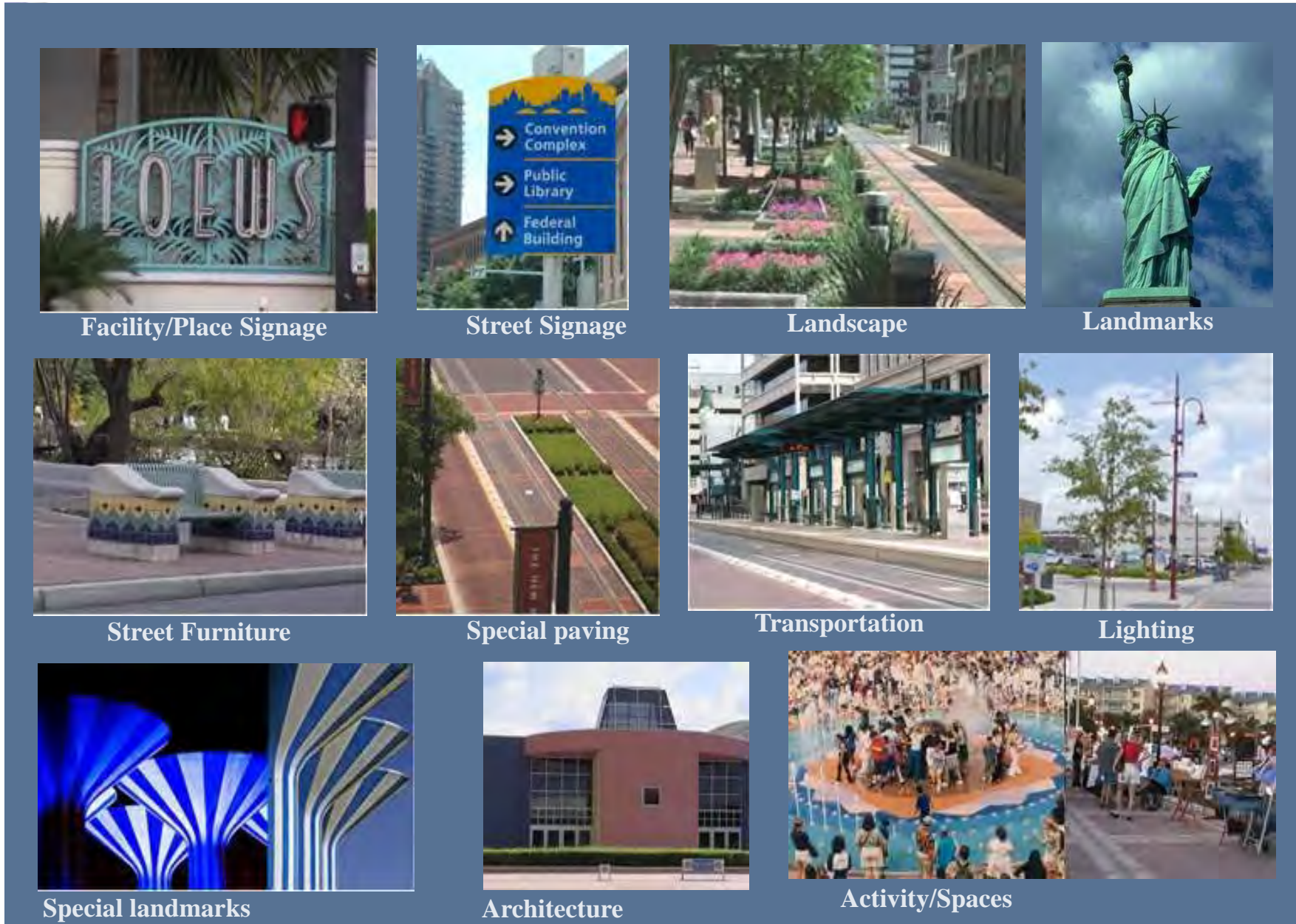


Figure 7.2, Examples of Wayfinding Components

- Code Enforcement
 - » The importance of maintaining a minimum level of expatiation for residences and businesses to maintain their properties to protect the overall value of the community.
- Pedestrian Mobility
 - » Reinforcement of a walkable community that is interconnected with sidewalks, trails, and open spaces.
- Wayfinding Signage
 - » Street signage is an effective way of identifying and helping residents and visitors navigate throughout the city.

Improved Gateways

The City of Jersey Village limits are irregular in shape and are dominated by the edges of Hwy 290 to the south and Beltway 8 to the east. Jones Road bisects the city but provides two key entrance points into the city to the east and west. Senate at Hwy 290 is widely seen as the main entrance into Jersey Village with Jones Road at Hwy 290 a close second (see [Figure 7.3, Corridor and Gateway Analysis Plan](#), on the following page).

Primary Gateway

- Hwy 290 at the east and west
- Jones Road at the north and south



SENATE AT HWY 290

Classification: Major Gateway



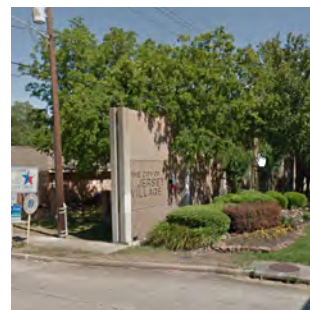
JONES ROAD AT HWY 290

Classification: Major Gateway



WEST ROAD AT HWY 290

Classification: Major Gateway



PHILLIPINE STREET AT BELWAY 8

Classification: Secondary Gateway

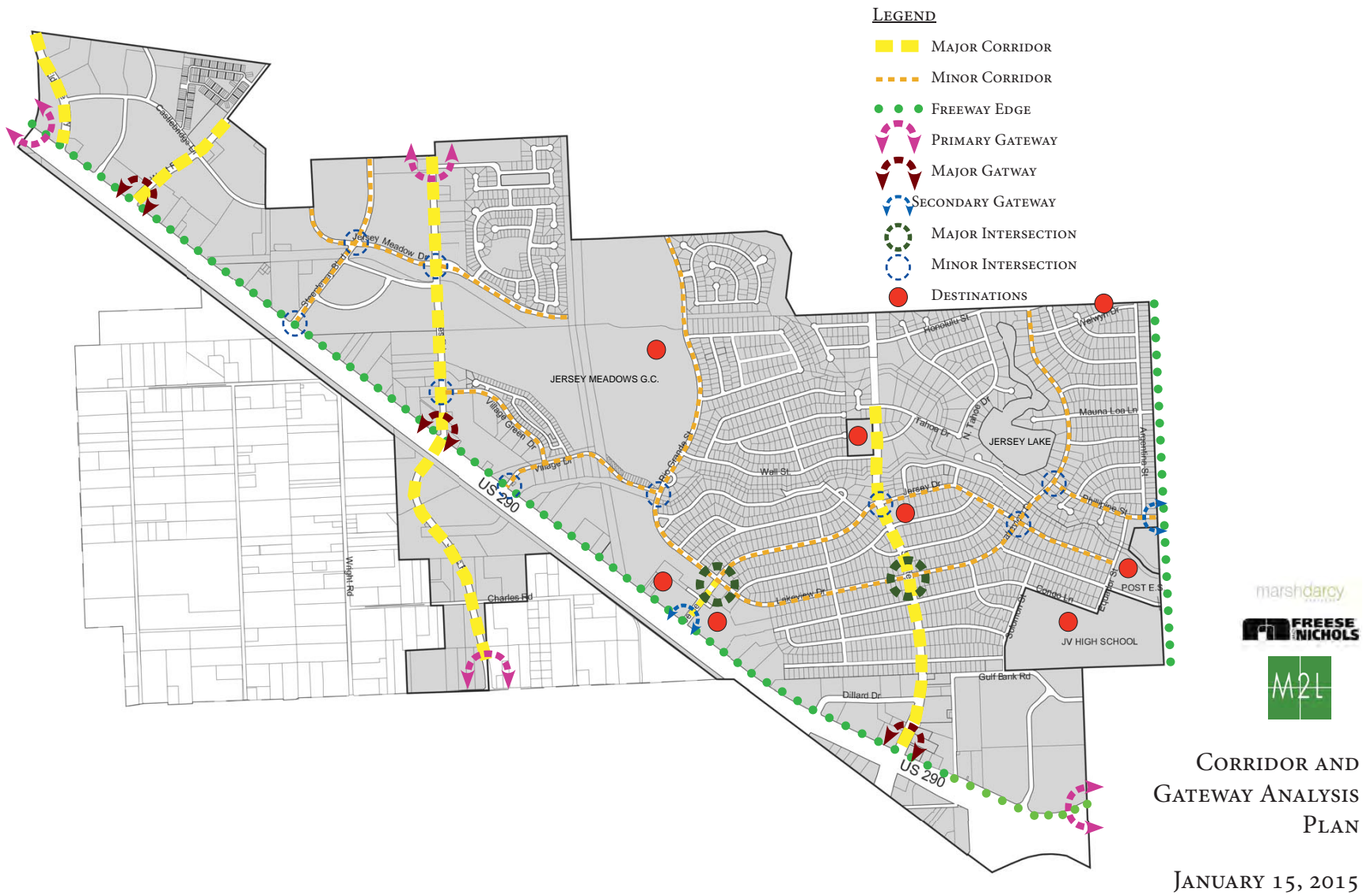


Figure 7.3, Corridor and Gateway Analysis Plan

Major Gateway

- Senate at Hwy 290
- Jones Road at Hwy 290
- West Road at Hwy 290

Secondary Gateway

- Phillipine at Beltway 8
- Jersey Meadow Drive at Jones Road
- Village Green Drive at Jones Road
- Village Drive at Hwy 290

Major Intersection

- Jones Road at Hwy 290
- Lakeview at Senate
- Lakes view at Jones
- West Rd at Hwy 290

Jones Road is technically a major intersection, but it also serves as a gateway into the center of Jersey Village and therefore is more prominent.

GATEWAY ENTRY ANALYSIS

Gateway entrances serve as the residents and visitor first impression of the city. Currently the entrances are inconsistent in their landscape and signage approach which has been identified as a potential negative impact on the community

1. Quality of Landscape

- » Landscaping at each entry is not consistent in design and/or maintenance. Some entries do not have any landscape improvements

2. HWY 290 Construction Activity Impact

- » The Highway 290 construction activities have negatively impacted the primary entrances into the city, Senate and Jones Road. The two signs are scheduled to be removed by TxDOT sometime during the project. A complete rebuilding of the signage and landscape will be needed, but this could also be an opportunity for the city to create a comprehensive vision for the gateway entrances throughout the city. See *Figure 7.4, Highway 290 Construction Activities*, below.



Figure 7.4, Highway 290 Construction Activities

3. Inconsistent of Signage Design and Materials

- » Each of the entrances have different building materials and configurations which could lend itself to confusion as to whether these are entrances into the city or just another subdivision.



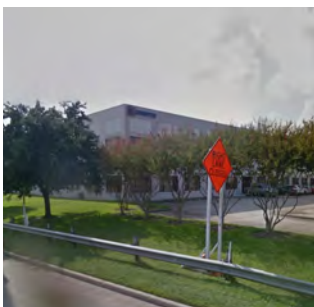
Hwy 290 Frontage Road
East of Senate



Hwy 290 Frontage Road
West of Senate



Beltway 8 Frontage Road
North of Phillipine



Beltway 8 Frontage Road
South of Phillipine

4. Logo and Font Consistency Lacking

- » The city's branding and logo are not consistently used for each of the gateway entrance signs, if present. This is a missed opportunity for the city to project it's brand.

Freeway Corridor Landscape Design

Freeways by their nature are meant to move people as quickly as possible from place to another. This condition requires a type of landscape that is appropriate for the scale and design speeds along the freeway.

- 1. Simple, Maintainable Landscape Design** - Urban landscapes take a lot of environmental abuse and should be native plantings that are hardy and easy to maintain.
- 2. Buffer Business and Parking Lots** - There currently is a lack of landscape consistency along the highway 290 corridor specifically at local businesses.
- 3. Enhance Community Edges** - A consistent landscape theme along the corridors would help to identify the edges of the city.
- 4. Reinforce Community Gateways** - Freeway landscaped edges will also provide a reinforcement of the gateway entrances into city by providing advance notice of a change in landscape design and approach.

Freeway corridor landscaping need not be elaborate and can be achieved in a number of ways which could include the following: (see *Figure 7.5, Potential Landscape Improvements Rendering*)

- **Landscape Ordinance** - An ordinance could be developed to address future business development and include minimal landscape standards.



Figure 7.5, Potential Landscape Improvements Rendering

- **Strategic Business Partnerships** - Work with local businesses to see what can be done to improve the overall landscape character of their businesses.
- **Capital Improvement Projects** - Look to fund future landscape projects through city funded revenue sources.
- **Grant Funding** - There are a number of state and federal grant programs that may be available to help fund freeway corridor enhancements which could be explored in the future.

Community Landscape

Residential streetscape design can help define individual neighborhoods, promote safety, and create a transition from public to private spaces. The character of a residential streetscape can vary from one neighborhood to the next, but should be of a similar quality. Senate Avenue is the main corridor within the city and is well maintained and recognizable to residents and visitors alike.

Future landscape development should build-off the recognizable features of this corridor. An integral part of the overall community landscape character requires a partnership between the city owned properties and the individual residences. Residences must be willing to maintain their property's landscape or must be guided in that direction by appropriate levels of code and community enforcement guidelines.

A successful residential streetscape design should generally include the following features:

1. **Sidewalks** - Sidewalks should be separated from automobile traffic by raised curbs and/or tree lawns; they should also meet all accessibility standards.



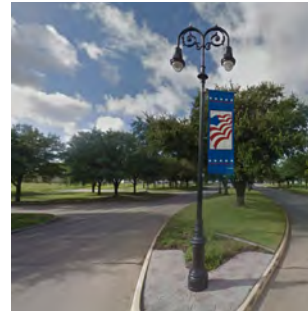
2. **Street Trees and Landscaping** - Street trees and landscaping should provide a natural buffer between pedestrians and automobiles. The city should review city-wide opportunities for additional landscaping opportunities where they are needed.
3. **Street Furniture** - Street furnishings should be coordinated in design and type with the overall character of the neighborhood.
4. **Entry Signage** - Entry signage should be coordinated with the unique character of the neighborhood through the use of appropriate materials, colors and architectural elements.
5. **Consistent Maintenance** - The commitment to long term maintenance of public landscapes is critical to the overall landscape character of the city.

EXISTING CORRIDORS

There are three main corridors through JV, Senate Road, Jones Road, and West Road. Two minor corridors also play a key role in circulation through the city, Lakeview drive and Jersey Drive. Senate Avenue extends from the south across 290 and terminates at White Oak Bayou. Senate is considered the main entrance and access into the primary residential area of the city.

A successful residential streetscape design should generally include the following features:

- **Senate Avenue** - This corridor has been upgraded with thematic landscaping, signage, and street lights/banners previously by the city and is currently maintained by the City. The corridor has many desirable landscape features that make it a model for future corridor landscape development.



SENATE AVENUE

Classification: Major Corridor



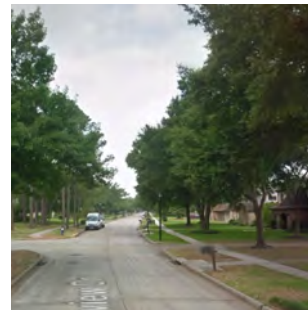
JONES ROAD

Classification: Major Corridor



WEST ROAD

Classification: Major Corridor



LAKEVIEW DRIVE

Classification: Minor Corridor



- **Jones Road** - This corridor has minimal landscape at the Hwy 290 intersection that was installed and maintained by the city. Previously this intersection/gateway was less important to the city, but with the advent of Jones Road extending to the south and the future development of Jersey Crossing, this intersection has more prominence. There are several other entrances into the city that are served off of Jones Road.
- **West Road** - This corridor is also isolated from the primary residential areas of the city and is not perceived as a major corridor that is identifiable with Jersey Village
- **Lakeview/Jersey Drive** - Although these streets are single pavement roadways, these local streets are important to the overall character of the city. Recent improvements by the city included decorative street lights and sidewalks.

Code Enforcement

The importance of maintaining a minimum level of expectation for residences and businesses to maintain their properties to protect the overall community character has been an underlining theme of the public input process. Code enforcement should not be a punitive measure, but a guideline for a public commitment to the overall quality of life in Jersey Village.

Codes and regulations can help maintain a minimum standard for behavior and action among businesses and residents. As state previously in this section, the development of a landscape code for business development can be a useful partnership tool to enact positive change.

Pedestrian Mobility

Many residents have stated that they want a walkable community and uninterrupted access to parks, open spaces, and local businesses. While the city has invested heavily into public infrastructure in the past ten years there appears to be gaps in accessibility. Community connectivity as it relates to parks and open spaces is discussed in greater detail in the park and open space section.

Pedestrian mobility would ideally include a comprehensive analysis of each community's existing pedestrian conditions and needs with an emphasis on community input throughout the process. The plan would identify pedestrian routes to activity centers and infrastructure improvement projects along these routes. The Pedestrian Master Plan will be a key resource and advantage for the City when seeking grant funding needed to implement pedestrian projects that promote pedestrian safety, walkability, mobility, and neighborhood quality.

An accessible community should have the following attributes:

1. **Community Connectivity** - Develop a complete pedestrian network that provides direct and convenient connections for neighborhoods, employment centers, transit stations, public places and community destinations.
2. **Park and Open Space Connectivity** - Multi-modal transportation opportunities along existing streets and/or open space corridors within the city are opportunities that can be explored.
3. **Walkability** - Create pedestrian facilities that offer amenities to encourage usage and to enhance the pedestrian experience.



- 4. **Safety** - The Creation a safe pedestrian network free of barriers and tripping hazards, that has sufficient street crossings, buffer pedestrians from vehicles and has facilities wide enough to accommodate peak pedestrian use
- 5. **Accessibility** - Make facilities accessible to pedestrians of all abilities and meet all local, state and federal requirements.

Wayfinding Signage

Goal of Wayfinding Signage Wayfinding signage, both regulatory and non-regulatory, has the potential to impact the greatest number of people over the entire city. When implemented at major intersections and city 'Gateways', wayfinding signage will be a highly visible design element to project a collective, positive image of the community. (see [Figure 7.6, Sample Wayfinding Signage Plan](#)) The goal of the wayfinding signage system is to reinforce the city's "sense of place as previously discussed, by informing and guiding users as they travel throughout the city, and enhancing the city's visual appeal and identity, and ultimately making the city more memorable to residents and visitors.

OBJECTIVES OF WAYFINDING SIGNAGE

- 1. Celebrate the unique character of the city.
- 2. Reinforce the city's 'Sense of Place'
- 3. Reinforce the boundaries of the city.
- 4. Identify and increase awareness of important activity or destination points within the city.
- 5. Improve the streetscape character for the city's corridors.
- 6. Identify and reinforce linkages and pathways between the different parks and open spaces within and out of the city.

- 7. Effective, low cost design that can be easily implementable on a city-wide basis.

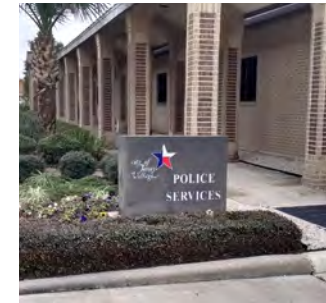
EXISTING CITY SIGNAGE

Currently the city does not have a comprehensive signage program that is unique to Jersey Village. The city has a definable logo and brand that has been used for some time and it appears that the majority of residents identify with the logo (see [Figure 7.6, Sample Wayfinding Signage Plan](#))

- Review Appropriateness of a Thematic Signage Program
- Consider Conducting a Thematic Master Plan Study
- Review Context of Surrounding Communities Who Have Implemented Thematic Signage Programs



Regulatory Signs



Facility Signs



Directional Signs



Community Information Signs



Figure 7.6, Sample Wayfinding Signage Plan

Community Input

While a detailed demand based analysis was not conducted their is significant community feedback through City Council, CPAC, online survey, and several public meetings that have provided valuable information as to the current state and importance of the parks and open space system in Jersey Village.

Public Outreach Methods

- Online survey of 204 residents
- City Council meetings and polling
- CPAC meetings and polling
- Public meetings

COMMUNITY CHARACTER IMPORTANCE

A common refrain during the planning process is that the residents of Jersey Village are proud of their community and want to strengthen the perception of the neighborhood. Because the city is spread out and has grown over the years the land use patterns have expanded. There is a strong concern that the edges and entrances are not clearly defined and that more needs to be done to improve the 'front' door into Jersey Village. Another concern centers on the long term viability of the neighborhood from code enforcement of properties, landscape maintenance, the quality of landscape throughout the neighborhood, and consistency of entrance signs and signage in general.

The following are summarized comments from the public outreach:

Code Enforcement

- Many citizens are concerned about the lack of code enforcement of individual and business properties.
- The perception that run down properties detract from the quality of the community is a concern.
- Their is a perceived lack of consistent, code enforcement by the city of delinquent properties.
- Typical Comments:
 - » "Keep Jersey Village Beautiful" enforce all codes!!!"
 - » "I am concerned it will become a neighborhood of falling down houses and unkempt yards."
 - » ".....improved schools, code enforced - start with landscape control, attract more high-end business."
 - » "We need to keep up the curbside appeal, but many homes don't keep up yards etc."
 - » "Better enforcement for homeowners mowing their grass"

Highway 290 and Beltway 8 Landscaping

- With the construction of Hwy 290 there is concern that the quality of the landscape along the freeway needs to be improved.
- The quality of the business properties along Hwy 290 are of concern and landscaping could help to mitigate this issue.
- Typical Comments:
 - » "Better landscaping at retail. 290/Jones is asphalt wasteland"
 - » "More trees around highways"

- » "Jones/290 area is awful"
- » " It would really improve the city's highway appeal if we had more restaurants and nice features around 290 itself. "
- » " Mixed landscape (i.e. Bellaire—trees are various sizes)"

Community Entrances

- Jersey Village has numerous entrances throughout the city, but there is a concern that visitors are unclear what is the main entrance.
- The quality and consistency of the landscape entries was noted as a concern.
- Construction impact from highway 290 construction on the Jones Road and Senate entries is a concern.
- Typical Comments:
 - » "Many Jersey Village residents see West Rd./etc. as their access homes"
 - » "More attractive entrance of Jones"
 - » "Visible attractive entry points"
 - » "An updated entrance to the city."
 - » "Have a billboard that says, "if you lived in jersey village, you'd be home" and place on 290 and the beltway."
 - » "Too many entrances"

Pedestrian Mobility

- An overwhelming theme of the public input centered on walkable community from residences to parks, retail, and other destinations.
- Some gaps in sidewalks and quality were noted during the planning stages..
- Typical Comments:
 - » "Walkable"
 - » "Sidewalks or walking paths connecting all segments for walking instead of current breaks. "
 - » "A safe neighborhood, where you see people walking, enjoying the parks etc. "
 - » "A walking and biking community. I think this is the future. Being able to bike or walk to restaurants, grocery etc."
 - » "More pedestrian friendly. Walk or bike to shops"
 - » "Sidewalks or walking paths connecting all segments for walking instead of current breaks."
 - » "Build sidewalks at all properties that should have sidewalks and repair those that are damaged"
 - » "Better passage for pedestrians (i.e. runners, walkers on bridges that cross bayou system on Rio Grande and Lakeview)"



Community Landscape

- Maintenance concerns have been brought up on numerous occasions.
- Potential concern that sub-standard parks and open spaces detract from the quality of the neighborhood
- Potentially under utilized parks facilities.
- Typical Comments:
 - » "1) Beautification Projects to all common areas and esplanades. 2) More law-enforcement 3) Have many more community events, similar to the Woodlands"
 - » "I'd like to see the village looking well kept with more crape myrtle and oak trees."
 - » "...planting of native tree and plants; "
 - » "1. Beautification projects (landscaping of common areas, esplanades. parks, etc.)"
 - » "Nicely kept city landscaping (as it is now)."
 - » "Grounds and street maintenance"
 - » "Clean. Nice landscaping"
 - » "I'd like to see the village looking well kept with more crape myrtle and oak trees"

Community Character Recommendations

The following are action items related to community character based on input throughout the planning process.

GOAL 1. HIGHLIGHT THE CITY'S IMAGE AS A SPECIAL COMMUNITY BY ENHANCING THE VISUAL CHARACTER OF THE CITY'S COMMERCIAL AREAS AND COMMUNITY ENTRANCES.

STRATEGIES

Improve the City's entrances with landscaping and monumentation.

- Prepare a landscape master plan for the design of City corridors and entrances with a consistent, identifiable character.
- Clean-up existing entries after TxDOT 290 work is complete until a new landscape master plan can be developed.
- Incorporate City logo into entrance sign designs.
- Design and implement Hwy 290 gateways according to TxDOT standards to highlight the entrance to the City.



STRATEGIES

Improve the landscape character of commercial business properties.

- Create landscape ordinance that requires new properties, and major renovation projects to be landscaped to a minimum standard for areas adjacent to public rights-of-way.
- Create commercial development guidelines to encourage new development to build to minimum landscape standards.
- Create signage ordinance for local businesses that is consistent with the overall signage master plan.
- Coordinate with local businesses to encourage a uniform sign design standard.
- Explore strategic public/private partnerships with local businesses to encourage beautification efforts of their properties.
- Sponsor a beautification award for businesses to encourage landscape development of their properties.
- Review code enforcement procedures for their effectiveness, and make necessary changes.

STRATEGIES

Reduce visual clutter.

- Prepare a visual assessment survey of City corridors to identify problem areas that negatively impact community character.
- Create architectural design guidelines to encourage minimum design standards.
- Remove overhead power lines as new infrastructure projects are implemented.

STRATEGIES

Improve the character of corridor character throughout the community.

- Review and improve landscape maintenance procedures for City crews.
- Partner with Trees for Houston or other organizations that can provide assistance in planting trees.
- Create a more stringent tree preservation ordinance to protect existing tree resources.
- Promote increase canopy along streets, parks, and open spaces.
- Expand thematic street light standards to all City streets.

STRATEGIES

Upgrade City's logo and branding.

- Conduct a branding study to reinforce the City's community character and marketing approach.
- Explore potential logo application to proposed city entrance signage.



GOAL 2. INVEST IN INFRASTRUCTURE, ACTIVITIES, AND OPPORTUNITIES THAT WILL REVITALIZE THE HIGHWAY 290 CORRIDOR TO MAXIMIZE ITS VISUAL APPEAL, SENSE OF PLACE, AND ECONOMIC VALUE.

STRATEGIES

Create a sense of place and maximize the visual appeal of the Highway 290 corridor.

- Partner with local property owners and CenterPoint Energy to identify back-of-lot utility easements to provide options for removing overhead lines from the 290 frontage.

GOAL 3. PROTECT THE QUALITY AND INCREASE EXISTING CHARACTER OF RESIDENTIAL NEIGHBORHOODS.

STRATEGIES

Encourage housing and property maintenance to maintain neighborhood integrity.

- Develop a recognition/reward program to encourage homeowners to enhance or maintain their properties through lawn maintenance, and exterior upgrades and upkeep.
- Provide and coordinate programs to prevent the deterioration of homes.
- Educate citizens on code enforcement requirements. Communicate status reporting of violations and corrections to the community. Information shared could be related to general types of violations, clearance rates, average time to contact, etc.
- Develop an annual or semi-annual neighborhood clean up to promote community pride.

STRATEGIES

Enhance existing neighborhood infrastructure when possible.

- Institute an annual program for assessing quality and useful life of neighborhood amenities, and allocate funds for replacement, additions, or remodels as needed.

GOAL 4. PRESERVE, PROTECT, AND ENHANCE THE CITY'S IDENTITY AND SENSE OF COMMUNITY BY IMPLEMENTING WAYFINDING IMPROVEMENTS THROUGHOUT THE CITY.

STRATEGIES

Create a consistent, identifiable signage design throughout the city.

- Conduct a wayfinding signage master plan to explore potential thematic signs unique to the City to include street signs, directional, and facility signs.
- Develop commercial signage guidelines to encourage existing business to follow as well as control future commercial development application.

GOAL 7. PROMOTE INFILL AND REDEVELOPMENT OF VACANT OR UNDERUTILIZED PARCELS.

STRATEGIES

Promote the highest and best use for vacant or underutilized properties.

- Ensure property and building maintenance codes are up to date and compatible with current City values.



GOAL 8. PROMOTE THE APPROPRIATE MIX OF LAND USES WITHIN THE CITY LIMITS AND EXTRATERRITORIAL JURISDICTION.

STRATEGIES

Revitalize areas of opportunities to attract new investment and activity.

- Promote aesthetically pleasing designs for retail and commercial land uses that are located at major intersections as destinations in their own right, but also as corridor framing uses.

ARTICLE XII. - LANDSCAPING, BUFFERYARD, PARK AND OPEN SPACE STANDARDS

Footnotes:

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Editor's note— An illustration pertaining to bufferyard standards (Example 14-7) is set out following § 14-88.

Cross reference— Parks and recreation, ch. 46.

Sec. 14-306. - Landscaping requirements.

The following landscaping requirements shall become applicable to each individual lot at such time as an application for a building permit is made and shall remain in effect thereafter, changes in ownership or use notwithstanding. The building official shall not issue a building permit unless the developer provides landscaped areas according to this section; provided, however, that this section shall not apply to the following:

(1)

Building permits for the substantial restoration of a building which has been damaged by fire, explosion, flood, tornado, riot, act of the public enemy or accident of any kind issued within 12 months after such damage is sustained.

(2)

Building permits for new construction applied for prior to the adoption of these regulations.

(3)

Building permits for residential remodeling.

(4)

Building permits for interior remodeling in commercial districts and for nonresidential buildings in residential districts, provided that the roof and all exterior walls of the building remain in the same location and are not structurally altered.

When the requirements of this article conflict or are inconsistent with requirements of other provisions of this chapter, this article shall prevail.

(Ord. No. 95-04, § 1(1100), 2-20-95; Ord. No. 00-15, § 1, 5-15-00)

Sec. 14-307. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Canopy tree. Any self-supporting woody plant with one well-defined trunk and a distinct and definite formed crown which attains a height of at least 30 feet such as Oaks, Pecans, Sweet Gum, Southern Magnolia, Slash Pine, Loblolly Pines, Sycamore, Bald Cypress, Winged Elm, Cedar Elm, and Chinese Elm.

Drip line. The periphery of the area underneath a tree which would be encompassed by perpendicular lines dropped from the farthest edges of the crown of the tree.

Groundcover. A spreading plant including sods and grasses with a mature height of less than 18 inches in height.

Landscaped area. That area within the boundaries of a lot which is devoted to, and consists of, plant material, including but not limited to grass, trees, shrubs, flowers, vines and other groundcover, native plant materials, planters, brick, stone, natural forms, water forms, aggregate and other landscape features; provided, however, that the use of brick, stone, aggregate or other inorganic materials shall not predominate over the use of organic plant material. Smooth concrete or asphalt are not approved materials within the landscaped area.

Landscaping. Trees, shrubs, ground cover, vines or grass installed in planting areas, having a minimum of ten square feet of actual plantable area and a minimum inside dimension on any side of 18 inches.

Large tree. A tree with an expected mature height of more than 50 feet, including most oaks, maples, pines, elms, hickories, and pecans.

Noncanopy tree. Any self-supporting woody plant with one or more trunks which attains a height of at least 15 feet such as Eastern Redbud, Southern Golden Raintree, and Flowering Pear.

Protected tree. A tree on public property, a large street tree, or a large tree in the front or side street-facing yard of private property with a trunk diameter larger than six inches (measured at four feet off the ground) that is not an undesirable tree or a tree having replaced a protected tree.

Shrub. A woody perennial plant differing from a perennial herb by its more woody stem and from a tree by its low stature and habit of branching from the base.

Street tree. A tree on a public street right-of-way with[in] the city.

Tree. A woody plant having one well-defined stem or trunk having a more or less definitely formed crown, and ordinarily attaining a mature height of not less than six feet.

Undesirable tree. A tree planted or existing in violation of the spacing requirements of this article, a tree that is dead or dying as determined by the director of public works or a professional arborist, a tree that is a hazard to public health, or a tree that has damaged and will continue to damage property.

(Ord. No. 95-04, § 1(1101), 2-20-95; Ord. No. 00-15, § 2, 5-15-00; Ord. No. 03-31, § 1, 9-15-03)

Cross reference— Definitions generally, [§ 1-2](#).

Sec. 14-308. - Procedures.

(a)

Applications for residential building permits shall show the required landscaping by noting the square footage of the landscaped area and the location of the required trees on the site plan.

(b)

Application for nonresidential building permits shall provide a site plan as described in subsection [14-6\(d\)](#) with the following additional information:

(1)

The location, size and type (tree, shrub, ground cover, grass) of proposed landscaping in proposed landscaped areas;

(2)

The location and size of proposed landscaped areas;

(3)

The location and species of existing trees eight inches or larger in diameter and the approximate size of their crowns;

(4)

Information necessary for verifying whether the required minimum percent of landscaped area has been met;

(5)

An explanation of how the applicant plans to protect the existing trees, which are proposed to be retained from damage during construction;

(6)

The proposed irrigation system as required by subsection [14-310\(7\)](#);

(7)

The certification of an engineer, surveyor, landscape architect or architect registered in the state, or full-time professional building designer that the plans satisfy the requirements of this section, provided, however, that for a development greater than two acres in size, such plans and certification shall only be made by landscape architect registered in the state.

(c)

The building official shall inspect each site not later than 12 months after issuance of the certificate of occupancy to ensure compliance with the requirements of this section.

(d)

If, at the time of an application for a certificate of occupancy, the required landscaping is not in place, the owner shall make fiscal arrangements (by bond, certificate of deposit, or letter of credit) satisfactory to the city in the amount of \$2.00 per square foot of required landscaping not in place to ensure that such required landscaping shall be installed. A property owner making such fiscal arrangements must grant the city a license to enter upon the land for the purposes of installing the required landscaping in the event that such landscaping is not in place at the time of the inspection required by the preceding subsection. Such fiscal arrangements shall be released, if the required landscaping is in place at the time of such inspection.

(Ord. No. 00-15, § 3, 5-15-00)

Editor's note— Ord. No. 00-15, § 3, adopted May 15, 2000, repealed § 14-308, which pertained to applications, and derived from Ord. No. 95-04, § 1(1102), adopted Feb. 20, 1995. Section 3 of said Ord. No. 00-15 adopted new provisions to read as herein set out.

Sec. 14-309. - Specific standards.

(a)

Residential lots.

(1)

Residential lots shall have landscaped areas which in the aggregate include not less than 50 percent of the area contained within the building setbacks.

(2)

A minimum of two trees (either existing or planted) measuring one inch or greater in diameter four feet above the ground at time of planting or measurement (if existing) are required within the front or side street setback areas.

(3)

Landscaping shall be in harmony with the surrounding area adequate to minimize visual monotony and barrenness.

(b)

Nonresidential lots.

(1)

At least ten percent of the total area within a lot shall contain landscaped areas.

(2)

A landscaped area ten feet in width shall be provided adjacent to each street right of way. Drives and sidewalks shall not be included in the required landscaped area except to the extent to which they may be required to cross the buffer to provide access.

(3)

All open, unpaved space including, but not limited to, front, side and rear building setback areas shall be landscaped.

(4)

An average of at least ten feet and a minimum of five feet shall be a landscaped area and walkway between the building and parking areas.

(5)

Trees, either existing or planted, measuring a minimum of two inches average diameter measured four feet above ground level at the time of planting or measurement (if existing) shall be provided according to the following standards:

a.

In lots containing 20,000 square feet or less, one tree per 2,000 square feet, or fraction thereof;

b.

In lots containing more than 20,000 square feet, but less than 100,000 square feet, ten trees, plus one tree per 2,500 square feet or fraction thereof in excess of 10,000 square feet;

c.

In lots containing more than 100,000 square feet, 46 trees plus one tree per 5,000 square feet, or fraction thereof, over 100,000 square feet;

d.

A minimum of 25 percent of the trees required by this section shall be canopy trees with the remainder in noncanopy trees.

Each tree planted shall be in a planting area with a radius not less than three feet measured from tree trunk to the near edge of the landscaped area. All tree plantings shall be encompassed with an approved curb barrier to prevent access by vehicular traffic.

(6)

Ground signs. A landscaped area not less than ten feet in width shall be located around the supporting structure of each ground sign and extending not less than three feet beyond each end. A hedge or other durable planting, which is not less than one foot in height at the time of planting and which will attain an average height of at least three feet shall extend the entire length and width of the required landscaped setup. Two flowering trees, not less than eight feet in height, shall be located within the required landscape setup. The remainder of the landscaped setup may be in grass or a decorative ground cover.

(7)

Parking lots and other vehicular areas. Vehicular use areas, parking areas, parking lots, and their parked vehicles shall have effective buffering from the street view. A minimum amount of the total area of all vehicular use areas and parking areas of a lot shall be devoted to landscaped islands, peninsulas, or medians. The minimum total area in such islands, peninsulas, and medians shall be 90 square feet for each 12 parking spaces therein. No parking space shall be located further than 50 feet from a permeable landscaped island, peninsula or median or tree. All islands, peninsulas and medians required in the areas stated above, shall be more or less evenly distributed throughout such parking areas, respectively; however, the distribution and location of landscaped islands, peninsulas, and medians may be adjusted to accommodate existing trees or other natural features so long as the total area requirement for landscaped islands, peninsulas, and medians for the respective parking areas above is satisfied.

(Ord. No. 00-15, § 4, 5-15-00)

Editor's note— Ord. No. 00-15, § 4, adopted May 15, 2000, repealed § 14-309, which pertained to procedures, and derived from Ord. No. 95-04, § 1(1103), adopted Feb. 20, 1995. Section 4 of said Ord. No. 00-15 adopted new provisions to read as herein set out.

Sec. 14-310. - General standards.

(1)

The existing natural landscape character shall be preserved to the extent reasonable and feasible. The developer shall use his best good faith efforts to preserve existing trees. In determining whether there is compliance with this subsection the city shall consider topographical constraints on design, drainage, access and egress, utilities and other factors reasonably related to the health, safety and welfare of the public which necessitate disturbance of the existing natural character, the nature and quality of the landscaping installed to replace it; and such other factors as may be relevant and proper. Indiscriminate clearing or stripping of natural vegetation on a lot is prohibited.

(2)

All newly planted trees shall be planted in a permeable area not less than three feet in width. Permeable pavers may be considered as permeable cover. The impervious cover within the landscaped area encompassing the dripline of any tree shall not exceed 50 percent of the landscaped area.

(3)

The developer shall use native or naturalized plants and trees which are capable of vigorous and healthy growth in this area.

(4)

Landscaped areas shall be maintained in a vigorous and healthy condition, free from disease, pests, weeds and litter. Maintenance shall include weeding, watering, fertilization, pruning, mowing, edging, mulching and other maintenance in accordance with generally accepted horticultural practice. Plant materials which are dead, diseased or severely damaged shall be removed and replaced by the landowner as soon as possible, but not later than 60 days after notification; provided, however, that trees which are dead, diseased or severely damaged, shall be removed no later than 60 days after notification and replaced not later than six months after notification or by the next planting season, whichever comes first.

(5)

When a driveway intersects a public right-of-way or when the subject property abuts the intersection of two or more public right-of-ways all landscaping within the site triangle (see figure 14-5) shall provide unobstructed cross visibility at a level between three feet and eight feet. Landscaping shall be maintained in such a manner as not to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device or to obstruct or interfere with the view of the driver of an approaching, emerging or intersecting vehicle or to prevent a traveler on any street from obtaining a clear view of approaching vehicles for a distance of 250 feet along the street.

(6)

Landowner responsibilities. The landowner shall be responsible for:

(a)

The regular maintenance of all required landscaped areas and plant materials in a vigorous and healthy condition, free from disease, pests, weeds and litter. This maintenance shall include weeding, watering, fertilization, pruning, mowing, edging, mulching or other needed maintenance, in accordance with generally accepted horticultural practice.

(b)

All vegetation on each lot shall be cut as often as may be necessary to maintain the same in a neat and attractive manner. Edging and trimming shall be conducted at such intervals so as to prevent the invasion of vegetation in excess of four inches onto any sidewalk, paved walkway, driveway or curb.

(c)

The repair or replacement of required landscape structures to a structurally sound condition.

(d)

The regular maintenance, repair or replacement where necessary, of any required screening or buffering.

(e)

The owner of a tree overhanging a street or right-of-way within the city shall prune the branches so that the branches will not severely obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 13 feet above street surface of [or] eight feet above the sidewalk surface. The owner shall be responsible for removing all dead, diseased, or dangerous trees, or broken or decayed limbs, including tree stumps, which constitute a menace to the safety of the public. Tree pruning shall be done in accordance with accepted arboricultural standards.

(7)

Irrigation. Landscaping required by this article shall be irrigated according to the standards established below:

(a)

One of the following methods shall be used for landscape irrigation:

1.

An underground sprinkling system.

2.

An automatic water-saving irrigation system.

3.

A hose attachment within 100 feet of all landscaped areas. The irrigation method used shall provide a moisture level in an amount and frequency adequate to sustain growth of the plant materials on a permanent basis. Such irrigation method shall be in place and operational prior to issuance of certificate of occupancy.

(b)

Reserved.

(c)

All sprinkler systems shall be on a separate water meter from other uses and equipment with approved backflow prevention devices.

(8)

Plant installation. All required plant materials shall be installed according to planting details and specifications showing clearly how growing conditions adequate to sustain vigorous and healthy growth will be achieved including, but not limited to:

(a)

Protection and support of tree trunks.

(b)

Provision of adequate conditions for root growth.

(c)

Provision for retention of moisture.

(d)

Protection of plants from equipment or vehicular damage.

(9)

Spacing. No large tree shall be planted within five feet of a public sidewalk or street, within five lateral feet of an underground electric, water, gas, or sewer utility line, or within ten lateral feet of an overhead electric utility wire. No street

tree shall be planted within 35 feet of a street corner, or within ten feet of a fire hydrant, water meter, or street light. No street trees may be planted closer together than the average expected spread of the trees at maturity.

(10)

A person conducting excavation or construction near a protected tree shall see that the protected tree is reasonably protected including appropriate protective markings or fencing around the drip line of the tree.

(Ord. No. 00-15, § 5, 5-15-00; Ord. No. 02-15, § 1, 6-17-02; Ord. No. 03-31, §§ 2—4, 9-15-03)

Editor's note— Ord. No. 00-15, § 5, adopted May 15, 2000, repealed § 14-310, which pertained to landscaping requirements, and derived from Ord. No. 95-04, § 1(1104), adopted Feb. 20, 1995. Section 5 of said Ord. No. 00-15 adopted new provisions to read as herein set out.

Sec. 14-311. - Credits toward landscaping requirements.

(1)

An existing or planted tree which is not less than eight inches in diameter or not less than six inches in diameter and not less than 15 feet in height shall be considered as two trees for purposes of satisfying this section.

(2)

Each square foot of landscaped area which is permeable and within the area encompassed by the dripline of a tree shall count as one and one-half square feet of landscaped area for the purposes of satisfying the requirements of subsection 14-310(b), as applicable. To encourage growth of smaller trees between four and eight inches in trunk diameter, measured four feet off the ground, such trees shall receive such special credit for twice the area of the dripline. Thus, each square foot of landscaped area around such four-inch to eight-inch trees which is permeable and contiguous to the landscaped area within the dripline shall count as two square feet of landscaped area for the purposes of satisfying the requirements of subsection 14-309(b). In no case shall the actual landscaped area be less than two-thirds of the required minimum percentages under subsection 24-309(b).

(3)

The credits of subsection (2) of this section shall be subject to the following limitations: Neither overlapping dripline areas nor areas contiguous to the dripline areas which overlap shall be counted twice. Moreover, a tree dripline area shall not qualify for credit under this section if:

(a)

Less than one-half of the dripline area is permeable cover;

(b)

There have been any damaging changes in the original grade of the dripline under the tree; provided, however, changes in grade required by city ordinance such as sidewalks and curbing highway approaches shall not be considered as damaging changes; or

(c)

The total of such area receiving such credit around the tree exceeds the total square footage of landscaped area within the dripline.

(Ord. No. 00-15, § 6, 5-15-00)

Editor's note— Ord. No. 00-15, § 6, adopted May 15, 2000, repealed § 14-311, which pertained to planting and growth of trees in street rights-of-way, and derived from Ord. No. 95-04, § 1(1105), adopted Feb. 20, 1995. Section 6 of said Ord. No. 00-15 adopted new provisions to read as herein set out.

Sec. 14-312. - Landscaping in street rights-of-way.

Maintenance of landscaping within street rights-of-way shall be the responsibility of the adjacent property owner. Trees, shrubs, bushes or other vegetation planted in the street right-of-way shall not interfere with the view of traffic along the street. No trees, bushes, shrubs or other vegetation greater than three feet in height shall be planted, grown or maintained within the sight triangle defined in figure 14-5.

The species of trees planted within street rights-of-way shall be ornamental varieties such as crepe myrtle, eastern redbud and other similar trees which, at maturity, attain an average height of approximately 30 feet. Trees shall not be located within four feet of a public sidewalk or the future extension of a sidewalk. Trees shall not be located within five feet of the curb.

(Ord. No. 00-15, § 7, 5-15-00)

Editor's note— Ord. No. 00-15, § 7, adopted May 15, 2000, repealed § 14-312, which pertained to credits toward landscaping requirements, and derived from Ord. No. 95-04, § 1(1106), adopted Feb. 20, 1995. Section 7 of said Ord. No. 00-15 adopted new provisions to read as herein set out.

Sec. 14-313. - Alternative compliance.

Notwithstanding the foregoing provisions of this article, a landscape plan which is alternative to strict compliance with the various landscaping requirements of this article may be approved by the planning commission if the commission finds that such plan is as good or better than a plan in strict compliance with the various landscaping requirements of this article in accomplishing the purposes of this article. Such landscape plan shall be drawn and sealed by a landscape architect certified in the state.

(Ord. No. 95-04, § 1(1107), 2-20-95; Ord. No. 00-15, § 8, 5-15-00)

Sec. 14-314. - Parks, playgrounds and open space areas.

(a)

Dedication. The developer of any residential lots or, in the case of multifamily residential structures, dwelling units shall dedicate land for park uses at locations designated in the comprehensive plan or otherwise where such dedications are appropriate at the rate of ten percent of the total development (as shown on the preliminary plat). A maximum of 50 percent of the dedicated area may be dedicated as open space. The developer may dedicate the area in stages if the development contains two or more phases. The developer shall show the area marked on the final plat as "dedicated for park, open space and recreation purposes."

(b)

Money in lieu of land.

(1)

Variance required. A variance from the requirement to provide parkland may be granted by the city at the time of preliminary plat approval if the dedication of park land, as required in subsection (a) of this section is determined to work an undue hardship on the development or the tract size is inadequate for park and/or recreational purposes and a park site is available within one-half mile of the development. Where a variance is granted, the developer shall deposit with the city, prior to final plat approval, a cash payment in lieu of land dedication. The developer shall deposit with the city a sum of money equal to the current assessed value of the land in the development according to the county appraisal district, based on the prorated amount of land required in subsection (a) of this section.

(2)

Neighborhood park and recreation improvement fund. Such deposit shall be placed in a neighborhood park and recreation improvement fund established by the city. The deposit shall be used by the city for improvement and/or acquisition of a neighborhood park, playground or recreation area. Such deposit shall be used by the city for facilities that will be actually available to and benefit the persons in such development and be located within one-half mile of the development. If, within 18 months, the city has not purchased the land for a neighborhood park, playground or recreation area or improved an existing facility within one-half mile of the development, the city shall reimburse the developer the full cash payment made in lieu of land dedication.

(c)

Quality of park site. The developer may, with concurrence of the city, make as extensive improvements or provide recreational facilities as desired. The developer shall dedicate land for recreation purposes of a character and location suitable for use as a playground, playfield or for other recreation purposes. The recreation site shall be relatively level and dry with a total frontage on one or more streets of at least 200 feet in depth and no other dimension of the site shall be less than 100 feet in depth. The developer, with the city's permission, may locate the tract at a suitable place on the periphery of the development, so a more usable tract will result when additional park land is obtained when adjacent land is developed.

(d)

Open space. The developer may dedicate open space areas in partial fulfillment of the requirements in [section 14-309\(a\)](#). Open space shall include all land and water dedicated as a means to conserve land and other natural resources or for historic or scenic purposes not required to be dedicated elsewhere. Areas dedicated for open space uses may include, but not be limited to, sites that:

(1)

Present existing or potential hazards such as earth slippage or subsidence or other geological hazards;

(2)

May be in danger of flooding from stormwater runoff;

(3)

Preserve or protect scenic sites; or

(4)

Provide a buffer between incompatible land uses.

(e)

Credit for private parks and recreational areas. If the developer provides private open space for park and recreational purposes and such space is to be privately owned and maintained by the future residents of the development, such areas shall be credited against the requirement of dedication for park and recreational land, provided that the following standards are met:

(1)

Yards, court areas, setbacks and other open spaces required in developments are not included in the computation of such private open spaces;

(2)

The private ownership and maintenance of the open space is adequately provided for by written agreement; and

(3)

The use of the private open space is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of property within the development.

(Ord. No. 95-04, § 1(1108), 2-20-95)

Sec. 14-315. - Reserved.

Sec. 14-316. - Permit required.

(a)

No person shall remove a healthy protected tree in the front yard of a residential property without first obtaining a permit from the director of public works.

(b)

The fee for a permit to remove a protected tree shall be \$50.00. The tree shall be replaced with a tree or trees with a combined diameter of one inch for each six inches and fraction thereof of replaced tree diameter (measured at four feet off the ground). Replacement trees must be at least one inch in diameter measured at four feet off the ground. The director of public works may authorize that one or more of the replacement trees be planted in designated locations on public property. No replacement tree shall be required if the property has at least two other large protected trees in the front yard.

(Ord. No. 03-31, § 5, 9-15-03)

Secs. 14-317—14-330. - Reserved.

ARTICLE X. - TREE PRESERVATION

Sec. 5-150. - Purpose and intent.

The purpose and intent of this article is to promote and preserve healthy and desirable tree species as an important public resource, serving to enhance air quality, mitigate flooding and storm water runoff, reduce energy costs, store and sequester carbon dioxide, and enhance quality of life. Tree preservation further assists in protecting the city's unique character and aesthetically-pleasing environment. The purpose shall be accomplished through the protection of trees of certain species and size, regulation of the proper pruning, protection of trees during construction activity, and establishment of procedures for requesting removal of such trees.

(Ord. No. 1860, 4-12-10)

Sec. 5-151. - General provisions.

- (a) Permits issued under this article shall only apply to the specific tree(s) and property identified in the permit.
- (b) For work requiring a building permit, the buildings, renovations, additions and site improvements shall be oriented in a manner that allows for preservation of the maximum number of trees to the greatest extent reasonably feasible.
- (c) No more than fifty (50) percent of the critical root zone of any heritage tree shall be covered with impervious cover and no closer than three (3) feet from the trunk of the tree.
- (d) No more than thirty (30) percent of the critical root zone of any heritage tree shall be trenched, excavated, damaged or removed and no closer than three (3) feet from the trunk of the tree.
- (e) All tree pruning shall follow ANSI A300 standards.
- (f) The property owner is responsible for maintaining all trees or tree canopy on the property by providing irrigation, fertilization, pruning, and other maintenance as required to preserve the health of all trees.
- (g) The property owner is responsible for trimming, pruning, or maintaining all trees and branches within any portion of their property and the contiguous portion of the property between the front property line and the paved city right-of-way to provide the visibility and vehicular clearances as required within Chapter 16 Streets and Sidewalks of the City's Code of Ordinances.

(Ord. No. 1860, 4-12-10)

Sec. 5-152. - Heritage trees.

- (a) The designation of Heritage Tree species is shown in Table 1. Heritage Tree designations establish a threshold trunk size, measured in diameter at breast height (DBH) for purposes of applying the requirements of this article.

Table 1: Designation of Heritage Trees		
Tree Species	Botanical Name	Heritage Tree (DBH)
Anaqua	Ehretia annacua	24"

Black Cherry, Escarpment	<i>Prunus serotina</i> var. <i>eximia</i>	24"
Black Walnut	<i>Juglans nigra</i>	24"
Cedar, Deodora	<i>Cedrus deodara</i>	12"
Crepe Myrtle	<i>Lagerstroemia indica</i>	24"
Cypress, Arizona	<i>Cupressus arizonica</i>	24"
Cypress, Montezuma	<i>Taxodium mucronatum</i>	24"
Elm, Cedar	<i>Ulmus crassifolia</i>	24"
Maple, Uvalde Bigtooth	<i>Acer grandidentatum</i>	24"
Mesquite	<i>Prosopis glandulosa</i>	24"
Oak, Blackjack	<i>Quercus marilandica</i>	24"
Oak, Bur	<i>Quercus macrocarpa</i>	24"
Oak, Chinkapin	<i>Quercus muhlenbergii</i>	24"
Oak, Lacy	<i>Quercus laceyi</i>	24"
Oak, Live	<i>Quercus</i> spp.	24"
Oak, Mexican White	<i>Quercus polymorpha</i>	24"
Oak, Texas Red	<i>Quercus buckleyi</i>	24"
Oak, Shumard Red	<i>Quercus shumardii</i>	24"
Olive, Mexican	<i>Cordia boissieri</i>	8"
Palm, Sabinal	<i>Sabal texana</i>	12"
Pecan	<i>Carya illinoensis</i>	24"

Persimmon, Texas	Diospyros texana	8"
Redbud, Texas	Cercis canadensis	8"
Magnolia, Southern	Magnolia grandiflora	24"
Sycamore, Mexican	Platanus mexicana	24"
Texas Mountain Laurel	Sophora secundiflora	8"

- (b) For the purposes of determining heritage tree designation and for applying the requirements of this article, multi-trunk trees shall be the sum total DBH as measured for each trunk. Multi-trunk trees shall be considered a heritage tree if the sum total DBH of all trunks equal or exceeds the threshold trunk size as listed for the tree species in Table 1 Designation of Heritage Trees.
- (c) For the purposes of determining heritage tree designation and for applying the requirements of this article, cluster trees shall be the sum total DBH of all trunks of a cluster of three (3) or more heritage tree type species where one tree is measured less than or equal to five (5) feet from another. Cluster trees shall be considered a heritage tree if the sum total DBH of all trunks equal or exceeds the threshold trunk size as listed for the tree species in Table 1 Designation of Heritage Trees.

(Ord. No. 1860, 4-12-10)

Sec. 5-153. - Registration of tree service vendors.

- (a) Any business or contractor providing tree services related to installation, pruning or removal of trees within the city must register with the city to become a Registered Tree Service Vendor.
Exception: Lawn maintenance professionals hired to provide general landscaping activities on a scheduled basis such as mowing, lawn trimming, planting, tree trimming, pruning, or removal shall not be required to register with the city.
- (b) The following items shall be required for application for tree service vendor registration:
 - (1) Application for a registered tree service vendor, and
 - (2) Valid tree pruning license from any municipality or recognized agency or organization within Bexar County, or
 - (3) Verification of ISA Certified Arborist on staff.
- (c) Limbs, branches and other cuttings from tree services performed by registered tree service vendors shall be removed from the city by the registered tree service vendor by the end of each business day the work was performed.

(Ord. No. 1860, 4-12-10)

Sec. 5-154. - Permit required.

- (a) A tree pruning permit is required for the pruning of any trees.

Exception: A pruning permit shall not be required when the pruning is completed by the property owner, or any personnel regularly employed by the owner for the purposes of routine maintenance, or landscaping.

- (b) A tree removal permit is required for the removal of any tree(s) larger than eight (8) inches DBH within the boundaries of the City of Alamo Heights.
- (c) The director shall consider requests for a tree removal permit, except as specified by this article, based on the following criteria:
 - (1) Is the proposed tree to be removed determined to be a heritage tree(s) according to section 5-152.
Note: Removal of a determined heritage tree shall not be approved without evidence submission of sufficient cause or hardship as determined by the director, board or commission.
 - (2) The topography of the site;
 - (3) Whether the removal of the tree would provide more light and airspace for adjacent trees;
 - (4) Whether the existing tree is in a location on the lot that is neither visible by the public or does not contribute to the tree canopy along the street; and
 - (5) Whether exceptional architectural design performed by a registered architect may be achieved by a reduction in trees.
- (d) Requests for a tree removal permit shall include the specific reason(s) for removing the tree(s), as well as:
 - (1) A site plan that identifies the exact locations, the tree species, and the DBH of all trees within the subject property and specifically identifies each tree proposed to be removed; and
 - (2) Photographs that sufficiently illustrate the character and location of each tree proposed to be removed.
- (e) If the tree removal permit is being requested in conjunction with a building permit, the request may also be required to include existing and proposed topographical information, easements, rights-of-way, setbacks, and property lines, the location of all existing and proposed structures, utilities, paved areas, and sidewalks, to the extent such information is available.
- (f) Permits for the removal of trees that fall or the removal of limbs which have fallen due to acts of nature such as windstorm, flood, freeze or other disasters, may be waived by the city manager or other designated official if requested within thirty (30) days of the weather event and removed within sixty (60) days.

(Ord. No. 1860, 4-12-10; [Ord. No. 2146](#), § 3, 10-14-19)

Sec. 5-155. - Fees for tree pruning permits, tree removal permits and tree service vendor registrations.

- (a) Fees for tree pruning permits, tree removal permits and tree service vendor registration shall be listed in the adopted schedule of development fees as maintained in the director's office. All application fees are non-refundable and due upon receipt of application.
- (b) The director shall issue a tree removal permit with no fee required if a heritage tree is:
 - (1) Determined by a certified arborist to be diseased or dying and is considered a hazard due to such condition, or is considered a hazard due to natural events, including, but not limited to, tornados, floods, storms, or other acts of God or by other events. Determination must be submitted in writing to the director's office prior to removal of the tree.

(Ord. No. 1860, 4-12-10)

Sec. 5-156. - Heritage tree removal mitigation.

- (a) A property owner or authorized agent requesting removal of a designated heritage tree which is not certified to be diseased or dying is required to provide these mitigation requirements if removal is approved by the director:
 - (1) Planting additional types of trees as listed in table 1 of this article (excluding palms, mountain laurels and crepe myrtles unless the heritage tree being removed is one of these types) with a replacement ratio (measured in inches DBH) which meets the following criteria:
 - a. Minimum 1:1 ratio (one (1) to one (1) replacement trunk DBH to removed trunk DBH) for individual heritage or multi-trunk heritage trees,
 - b. Minimum ½:1 ratio (one-half (½) to one (1) replacement trunk DBH to removed trunk DBH) for cluster type heritage trees.
 - (2) Minimum DBH for mitigation purposes is a four-inch caliper.
 - (3) Proposed planting shall be permitted on the following properties:
 - a. The same lot as such heritage tree(s) was removed,
 - (4) Fees in lieu of mitigation. A property owner or authorized agent required to provide mitigation shall plant additional trees on the property for which mitigation is required in accordance with section 5-156(a), or shall pay a fee in lieu of planting additional trees in accordance with the following:
 - a. A fee of three hundred dollars (\$300.00) shall be paid per inch of required mitigation for each heritage tree removed.
 - b. For residentially zoned properties located in the SF-A, SF-B, and 2F-C districts, and for properties with existing or proposed single-family structures in the MFD district, the cap for mitigation fees shall be two thousand dollars (\$2,000.000) per tree.
- (b) The director shall have discretion to modify mitigating requirements due to special circumstances.

(Ord. No. 1860, 4-12-10; [Ord. No. 2036](#), 10-26-15; [Ord. No. 2039](#), 12-14-15)

Sec. 5-157. - Prevention and control of the spread of oak wilt.

- (a) All pruned limbs or wounds to the trunk, limbs and root system of oak trees in the city that expose sapwood shall be painted within thirty (30) minutes of the wound with asphaltic or exterior oil or latex based paint.
- (b) Firewood from Oak wilt infected trees shall not be brought into the city at anytime.
- (c) When Oak wilt infection is suspected or found, the director shall be contacted within forty-eight (48) hours to obtain aid from the Texas Forest Service to confirm the diagnosis of Oak wilt. When Oak wilt is confirmed the measures for control recommended by the service shall be undertaken to control spread of the infection. The cost of such measures will be the responsibility of the owner of the tree(s), provided that the owner of the tree(s) shall have the option of undertaking the least expensive measures approved by the Texas Forest Service.
- (d) It is recommended that any firewood cut from any trees in the city and purchased firewood not be stacked under or close to oak trees and should be burned within one (1) year.

(Ord. No. 1860, 4-12-10)

Sec. 5-158. - Tree protection during construction.

To avoid damage or destruction of heritage trees and to enhance the chance of survival of other desirable trees after construction or demolition activities, the owner and contractor shall take and maintain the following measures throughout the course of demolition and construction:

- (1) Erect and maintain a temporary protective barrier that equals the diameter of the tree canopy for each tree to be preserved. The barrier shall be in place before any site work is initiated and maintained throughout the construction process to avoid impact injuries to the tree and the tree's root system during demolition and construction. During demolition and construction, no excess soil, additional fill, construction equipment, liquids or construction debris shall be placed inside the protective barrier nor shall any soil be removed from within the barrier.
- (2) To allow for vehicular access at times required during construction, the protective barrier on one side of the tree may be erected a minimum distance of sixty (60) inches from the trunk of a tree or group of trees only temporarily as such access is required. Other adjustments to the location of this barrier shall be approved by the director where site constraints are such that reasonable access for construction would otherwise not be available and where protection of the tree is still assured.
- (3) Protective barriers may be comprised of chain link fencing, plywood and where appropriate "snow" temporary fencing such as vinyl construction fencing, geo-textile material or other material approved by the director.
- (4) Trenching within a heritage tree's critical root zone shall have minimal intrusion and require the approval of the director during the building permit review process.

(Ord. No. 1860, 4-12-10)

Sec. 5-159. - Right-of-way clearance.

- (a) In the interest of the health, safety and general welfare of all residents by providing transit space for fire trucks, ambulances and other emergency vehicles, it is a violation of this article for any person to fail to prune trees and other vegetation to the face of the curb edge of the pavement adjacent to any traversable public right-of-way to a minimum height of thirteen and one-half (13.5) feet from the surface of the pavement after receiving written thirty (30) days' notice from the director or his designee.

Exception: The clearance above the traversable public right-of-way along La Jara Blvd. shall not be lower than eleven and one-half (11.5) feet from the surface of the pavement.

- (b) No provision of this article shall be construed to in any way limit or restrict any and all rights that the city may have to remove any part of a tree or vegetation that is permitted to grow over the public right-of-way and measures at a height above pavement less than permitted in subsection (a) above, or to maintain any civil suit for injunctive relief to require the removal or the prohibition of the same.

(Ord. No. 1860, 4-12-10)

Chapter 99 - VEGETATION¹¹

Footnotes:

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Cross reference— Environment, ch. 42.

ARTICLE I. - IN GENERAL

Sec. 99-1. - Definitions.

[The following words, terms and phrases, as used in this chapter, shall have the meanings respectively ascribed to them in this section, unless the context clearly indicates otherwise:]

Street trees is herein defined as trees, shrubs, bushes, and all other wood vegetation on land lying between the curb, pavement line and the property lines of either side of all streets, avenues or ways within the city.

Park trees is herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

(Ord. No. O-98-1130, § 1, 12-15-98)

Sec. 99-2. - Penalty.

Any person violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction or a plea of guilty, shall be subject to a fine in an amount not to exceed \$2,000.00 for each offense.

(Ord. No. O-98-1130, § 2, 12-15-98)

Secs. 99-3—99-20. - Reserved.

ARTICLE II. - TREE BOARD

Sec. 99-21. - Creation and establishment.

There is hereby created and established a city tree board for the city, which shall consist of six members, consisting of three members of the parks and recreation advisory board, and three members of the Keep Colleyville Beautiful and/or Colleyville Garden Club, who shall be appointed by the city council. This tree board shall serve in an advisory capacity to the Colleyville Parks and Recreation Board and through them, to the city council.

(Ord. No. O-98-1130, § 2, 12-15-98; Ord. No. O-09-1707, § 1, 2-3-09)

Cross reference— Parks and recreation advisory board, § 66-2.

Sec. 99-22. - Term of office.

The terms of the tree board members shall run concurrent with their terms on the parks and recreation advisory board, Keep Colleyville Beautiful Committee and/or Colleyville Garden Club. In the

event that a vacancy shall occur during the term of any member, the successor shall be appointed by the city council.

(Ord. No. O-98-1130, § 3, 12-15-98; Ord. No. O-09-1707, § 1, 2-3-09)

Sec. 99-23. - Compensation.

Members of the Colleyville Tree Board shall serve without compensation.

(Ord. No. O-98-1130, § 4, 12-15-98)

Sec. 99-24. - Duties and responsibilities.

It shall be the responsibility of the board to study, investigate, counsel and develop and/or update annually a written plan for the care, preservation, trimming, planting, replanting, removal or disposition of trees and shrubs in public ways, streets and alleys. Such a plan will be presented annually to the park and recreation advisory board and through it to the city council; and upon acceptance and approval of the city council, shall constitute the official comprehensive city tree plan for the City of Colleyville, Texas.

The city manager or his designee shall be responsible for the planting, pruning and removal of all trees located within the street rights-of-way, easements, alleys and parks of the City of Colleyville within the criteria of the approved plan. The owner of land abutting on any street may, when acting within the provisions of this chapter, prune, spray, plant or remove trees in that part of the street abutting his land. Permission of the city manager or his designee shall only be required when the owner of the abutting property intends to deviate from the rules and regulations contained in this chapter.

The board, when requested by the parks and recreation advisory board or the city council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

(Ord. No. O-98-1130, § 5, 12-15-98)

Sec. 99-25. - Operation.

The board shall choose its own officers, adopt by-laws and keep an official record of its proceedings. A majority of the members shall be a quorum for the transaction of business.

(Ord. No. O-98-1130, § 6, 12-15-98)

Sec. 99-26. - Review by city council.

The city council shall have the right to review the conduct, acts, and decisions of the tree board. Any person may appeal from any ruling or order of the tree board to the city council who may hear the matter and make a final decision.

(Ord. No. O-98-1130, § 14, 12-15-98)

Secs. 99-27—99-50. - Reserved.

ARTICLE III. - PLANTING AND MAINTENANCE²¹

Footnotes:

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Cross reference— Regulating weeds, grass and uncultivated plants, § 42-31.

Sec. 99-51. - Small trees and large trees.

[The species are listed by size classes as follows:]

Accent Trees (Range from 10 to 20 feet)

Redbud	Cercis canadensis
Crepe myrtle	Langerstromeia indica
Yaupon holly	Ilex vomitoria
Bradford pear	Purus calleryana "Bradford"
Texas sophora	Sophora affinis
Wild plum	Prunus americana
Crab apple	Malus augustifolia
Deciduous holly	Illex decidua
Flameleaf sumac	Rhus copallina
Cherry-laurel	Prunus caroliniana
Chase trees	Vitex angus-castus

Overstory Trees (Range from 30 to 60 feet)

Bald cypress	Taxodium distichum
Cedar Elm	Ulmus crassifolia
Lacebark Elm	Ulmus parvifolia

Pecan	<i>Carya illinoensis</i>
Chinese Pistache	<i>Pistacia chinensis</i>
Bur Oak	<i>Quercus macrocarpa</i>
Red Oak	<i>Quercus shumardii</i>
Sweet Gum	<i>Liquidambar styraciflua</i>
Green Ash	<i>Fraxinus pennsylvanica</i>
Live Oak	<i>Quercus virginiana</i>
Western soapberry	<i>Sapindus drummondii</i>
Post Oak	<i>Quercus stallata</i>
Black Jack Oak	<i>Quercus marilandica</i>
Eastern Red Cedar	<i>Juniperus virginiana</i>
Southern magnolia	<i>Magnolia grandiflora</i>
Slash pine	<i>Pinus elliotii</i>
Japanese black pine	<i>Pinus thunbergi</i>
Austrian pine	<i>Pinus nigra</i>
Afgan pine	<i>Pinus eldarica</i>

(Ord. No. O-98-1130, § 7, 12-15-98)

Sec. 99-52. - Spacing.

The spacing of street trees will be in accordance with the three [two] species size classes listed in section 99-51 of this chapter, and no trees may be planted closer together than the following (without approval of the tree board): Accent trees, 20 feet and overstory trees, 40 feet.

(Ord. No. O-98-1130, § 8, 12-15-98)

Sec. 99-53. - Distance from curb and sidewalks.

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the two species size classes listed in section 99-51 of this chapter, and no trees may be planted closer to any curb or sidewalk than the following: Small trees, three feet; medium trees, five feet; and large trees, nine feet in accordance with existing city ordinances.

(Ord. No. O-98-1130, § 9, 12-15-98)

Sec. 99-54. - Distance from street corners and fireplugs.

No tree shall be planted closer than 25 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten feet of any fireplug.

(Ord. No. O-98-1130, § 10, 12-15-98)

Sec. 99-55. - Utilities.

No street trees other than those species listed as small trees in section 99-51 of this chapter may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility.

(Ord. No. O-98-1130, § 11, 12-15-98)

Sec. 99-56. - Public tree care.

The city shall have the right to plant, trim, spray, preserve and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure safety when servicing city utilities or to preserve the symmetry and beauty of such public grounds. The city may remove or cause or order to be removed, any tree or part thereof which is located on public property or municipal utility easement, which by reasons of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest.

(Ord. No. O-98-1130, § 12, 12-15-98)

Sec. 99-57. - Trimming corner clearance.

Every owner of any tree overhanging any street or rights-of-way within the city shall trim the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street in an intersection and so that there shall be a clear space of seven feet above the surface of the street or right-of-way. The city shall have the right to trim any tree or shrub on private property when it interferes with visibility of any traffic control device or sign. Such trimming is to be confined to the area immediately above the right-of-way.

(Ord. No. O-98-1130, § 13, 12-15-98)

ARTICLE 7.700. - TREE PRESERVATION⁴

Footnotes:

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Editor's note— [Ord. No. 745](#), § 1, adopted Dec. 19, 2017, repealed former Art. 7.700, §§ 7.701—7.708, and enacted a new Art. 7.700 as set out herein. Former Art. 7.700 pertained to similar subject matter and derived from Ord. No. 672, § 1, 8-19-2014; Ord. No. 710, § 1, 9-22-2014.

Sec. 7.701. - Purpose and Definitions.

1. The purpose of this article is to preserve the tree canopy and continue the wooded character that has been the hallmark of the city since its founding while protecting owners' rights to utilize and enjoy their property by:
 - a. Establishing minimum tree requirements;
 - b. Requiring careful site planning and the protection of trees;
 - c. Controlling unnecessary tree removal;
 - d. Requiring tree replacement; and
 - e. Prohibiting indiscriminate cutting or clearing of trees.
2. Properties used for commercial purposes are exempt from section 7.701 1(1a) and 1(1b) of this article.

([Ordinance 745](#), adopted 12/19/17, Section 1)

Sec. 7.702. - Definitions.

As used in this article, the following words, terms, and phrases shall have the meanings ascribed to them in this section:

Approved tree list shall mean a list approved and maintained by the city that lists species of trees that are approved for meeting the minimum tree requirement described in this article.

Building shall mean any structure with a roof and enclosing walls that is used or intended for supporting or sheltering any use or occupancy.

Circumference or diameter shall mean circumference or diameter measured at a point on a tree four and one-half feet (4½') above the surrounding ground level. The equivalent circumference or diameter may be used for measurement purposes. Tree diameter in inches x 3.14 = tree circumference in inches. (For example, 6" diameter X 3.14 = 18.84" circumference). To measure a tree that forks or has two (2) boles or stems at or below four and one-half feet (4½'), only the circumference or diameter of the larger bole or stem shall be measured.

Critical root zone shall mean the area of a tree that is within a circle centered on the trunk location, with the circle's diameter being one-half of the sum of the longest and shortest drip line diameters.

Subject site shall mean any particular lot, tract, or parcel of land that is subject to the building permit process or otherwise invokes the regulations established in this article.

Tree shall mean a woody, perennial plant typically having a single stem or trunk, growing to a considerable height and bearing lateral branches at some distance from the ground.

Tree removal permit shall mean a permit issued by the city for the removal of a tree.

([Ordinance 745](#) , adopted 12/19/17, Section 1)

Sec. 7.703. - Minimum Tree Requirement.

- (1) Each lot shall have one (1) tree that is eight (8) inches or greater in diameter for every two thousand (2,000) square feet of lot area (excluding any land in the Harris County Flood Control District or utility easement), rounded to the nearest whole number (see Table 1). Trees in the Harris County Flood Control District or in a utility easement will not be counted.
- (2) If a lot has less than the number of trees described in the preceding subsection, the owner shall keep the number of trees larger than three (3) inches in diameter, counting from the largest diameter to the smallest diameter, that are on the lot (excluding any land in the Harris County Flood Control District or a utility easement) at the time a tree removal permit is sought or the provisions of this article are otherwise invoked.
- (3) A lot owner who is applying for a permit issued under the building permit process of the city's Code of Ordinances for the demolition of, construction of, or addition to any building, or installation of a swimming pool shall, regardless of the number or size of the trees existing on a lot prior to issuance of a permit, plant such additional trees as may be necessary to meet the minimum tree requirement described in subsection (1) above if the owner is:
 - (a) Constructing a new or replacement building;
 - (b) Constructing an addition[s] or extension[s] to an existing building that increases the square footage of the building by forty (40) percent or more; or
 - (c) Installing a swimming pool.

Table 1—Number of Trees for Representative Lot Sizes

Lot Size (sq ft)	# of Trees
24,000	12
22,000	11
20,000	10
18,000	9
16,000	8
14,000	7
12,000	6
10,000	5
8,000	4

([Ordinance 745](#), adopted 12/19/17, Section 1)

Sec. 7.704. - Preservation and Protection of Trees.

- (1) It is unlawful to remove any tree that is eight (8) inches in diameter or greater without first obtaining a tree removal permit from the city for each tree to be removed.
- (2) It is unlawful to remove a tree that is less than eight (8) inches in diameter without first obtaining a tree removal permit from the city if:
 - (a) Such tree is required to meet the minimum tree requirement for the lot as described in section 7.703(2); or
 - (b) Such tree was planted as a replacement for a previously removed tree.
- (3) It is unlawful to intentionally cause serious damage or death to any tree that is eight (8) inches in diameter or greater. Intentionally severing the main trunk or large branches or large roots, girding, poisoning, carving, mutilating, touching with live wires, piercing with nails or spikes, crushing or exposing the roots, or digging or drilling any hole or trench larger than three (3) cubic feet within the critical root zone, unless no other suitable location is possible, may be considered acts intended to cause serious damage or death to the tree.
- (4) Before beginning demolition or construction, appropriate protection for all trees shall be in place. Appropriate protection shall mean, at a minimum, a fence four (4) feet in height and composed of a material which is strong enough to prevent vehicles, materials, debris, dirt and other demolition or construction refuse from piling up within the critical root zone. Where possible, the fence shall be a minimum of six (6) feet away from the base of the tree at all points to prevent damage to the tree. If the location of a tree is less than six (6) feet from the foundation of the building or the property line, the protective fencing shall be located as far as possible from the base of the tree.

([Ordinance 745](#), adopted 12/19/17, Section 1)

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)

Sec. 7.706. - Replacement of Trees.

- (1) If, after loss of or removal of a tree, a lot does not or will not satisfy the minimum tree requirement as described in section 7.703(1) or (2), as applicable, then the lot owner shall, within one hundred twenty (120) days after loss of or removal of such tree, properly plant a replacement tree from the approved tree list. The replacement tree shall be at least three (3) inches in diameter measured at six (6) inches above the grade for each lost or removed tree. A tree intended as a replacement tree shall not be planted in the Harris County Flood Control District or in a utility easement, but nothing in this article is otherwise intended to prohibit the planting of trees in the Harris County Flood Control District or a utility easement.
- (2) With the approval of the city's arborist, a lot owner may plant additional species that are not on, but are similar in size to those that are on, the approved tree list. If the city's arborist does not approve, the owner may appeal by submitting a written request to city council. Property owners are encouraged (but not required) to plant trees native to the Texas Gulf Coast.
- (3) In situations of financial hardship, the city will have flexibility in obtaining outside help with re-forestation.

([Ordinance 745](#), adopted 12/19/17, Section 1)

Sec. 7.707. - Tree Survey.

- (1) Every permit issued under the building permit process of the city's Code of Ordinances for the demolition of, construction of, or addition to any building, or the installation of a swimming pool shall include a tree survey. Permit applicants must obtain and complete the proper forms, available in the city office, to show compliance with this article.
- (2) The permit holder will make every effort to maintain the distribution of existing trees. However, if the design, layout, plans, or construction of the proposed building cannot avoid the removal of any tree that is eight (8) inches in diameter (25.12 inches in circumference) or larger, then the permit holder shall be required to replace each removed tree with a tree from the approved tree list. Each replacement tree shall have a minimum caliper of three (3) inches in diameter (9.42 inches in circumference).

- (3) The tree survey shall be prepared by a person with expertise to prepare such a document, such as an architect, engineer, arborist, or surveyor.
- (4) The tree survey shall accurately reflect, at a minimum, the following information:
 - (a) The actual location (i.e., trunk location), diameter, and type of each tree on the subject site which is eight (8) inches in diameter (25.12 inches in circumference) or larger;
 - (b) Building or structure outlines, parking areas and other paved surfaces, fences, utilities, and other improvements existing or to be constructed;
 - (c) The location of tree protection fences;
 - (d) A scale, north arrow, name, address, phone number and profession or occupation of the person who prepared it, and the name of the permit applicant; and
 - (e) Identification of the real estate development and a description of the subject site and its location.
 - (f) The location and square footage of utility and flood control easements, and the square footage of the lot excluding utility and flood control easement square footage.

([Ordinance 745](#) , adopted 12/19/17, Section 1)

Sec. 7.708. - Final Inspection and Issuance of Certificate of Occupancy.

At final inspection under every building permit that includes a tree survey, the city's inspector shall inspect and confirm compliance with the tree survey and planting of required trees, if any. No certificate of occupancy shall be issued until the minimum tree requirement has been met but, if the certificate of occupancy is to be issued between May and September and the owner has agreed to meet the minimum tree requirement, a provisional certificate of occupancy may be issued until such time as the owner has complied.

([Ordinance 745](#) , adopted 12/19/17, Section 1)

Sec. 7.709. - Destruction of or Damage to Trees on Public Property.

In addition to the violation of any criminal law dealing with destruction of public property, it shall be unlawful to remove, destroy, kill, or damage any tree located on any public property in the city except when necessary in furtherance of the public health, safety or welfare. This section shall not prevent the city or any public utility from performing necessary maintenance or repair activities that may affect trees located within easements or on public property.

([Ordinance 745](#) , adopted 12/19/17, Section 1)

Sec. 7.710. - Exemptions from Requirements of this Article.

- (1) The provisions of this article shall not apply to trees removed or trimmed within an easement for public or private utilities by the easement's owner, or the owner's employee or authorized contractor, or by the utility provider or its authorized contractor, if the trimming or removal of such trees is required to properly use or maintain the easement. This article shall also not apply to trees removed or trimmed by the city or its authorized representative or by the utility provider or its authorized contractor on any public property or within any public right-of-way, including, but not limited to, drainage easements and roadway easements.
- (2) If this article would require a tree to be planted from May through September in any year, the planting may be delayed until October of that same year.

([Ordinance 745](#) , adopted 12/19/17, Section 1)

Sec. 7.711. - Enforcement.

- (1) The city has the authority and right to inspect any property to ensure compliance with this article.
- (2) The city may require any lot owner to prove that the owner is in compliance with this article.
- (3) The city may withhold, revoke, or suspend any tree removal permit or building permit if any condition or requirement of this article or such permit is not fulfilled.
- (4) The city may order an immediate stop to the removal of any tree, any activity that is likely to cause serious damage or death to any tree, or any demolition or construction of a building, if such activity is being done in violation of this article.
- (5) The city has the authority to hire a tree inspector for advice in conjunction with enforcing this article.
- (6) Anyone that intentionally, knowingly, recklessly, or with criminal negligence violates any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount as provided for in the general penalty provision in Chapter 1, Section 1.106, of the city's Code of Ordinances. Each day during which such violation shall exist or occur shall constitute a separate offense. The owner of any property where any violation of this article occurs and any agent, contractor, builder, architect, individual or entity that assists in the commission of such offense shall be guilty of a separate offense and, upon conviction thereof, shall be punished as above provided.

([Ordinance 745](#) , adopted 12/19/17, Section 1)

Sec. 7.712. - Appeal.

Anyone whose request for a building permit, tree removal permit, or certificate of occupancy has been denied due to the interpretation or application of this article may appeal that decision to the city council by filing a written notice of appeal with the city. The city council shall provide the applicant an opportunity to present evidence and arguments demonstrating that the applicant has complied with this article and is entitled to a permit or certificate of occupancy, and that the city erred in refusing to issue the requested permit or certificate of occupancy. If, at the conclusion of the hearing, a majority of the city council determines that the applicant is entitled to a permit or certificate of occupancy, the city shall issue one. Otherwise, the city's denial shall be affirmed.

([Ordinance 745](#) , adopted 12/19/17, Section 1)

Sec. 7.713. - Approved Tree List.

	Common Name	Scientific Name	Growth	Characteristics
1	American Elm (White Elm)	<i>Ulmus americana</i>	Rapid	Texas native, reliable fall color, seeds or fruit eaten by wildlife. Deep green leaves turn bright yellow in fall. Fast-growing, vase-shaped shade tree that tolerates a wide range of conditions. Dutch elm disease not too bad in Texas; extensive, shallow root system.

2	Bald Cypress	<i>Taxodium distichum</i>	Moderate	Deciduous conifer with feather-like leaves, round seed balls, and fibrous bark. Adapted to many soil and moisture conditions. Grows well in wet areas. Woody 'knees' develop on wet sites. (Has very aggressive roots—do not plant near house or sewer lines).
3	Black Walnut	<i>Juglans nigra</i>	Moderate	Texas native, seeds or fruit eaten by wildlife. Distinctive shade tree for open spaces. Fruits can be extremely messy. Webworm can be a problem. Leaves drop early in the fall.
4	Blackgum (Black Tupelo)	<i>Nyssa sylvatica</i>	Moderate	Texas native, reliable fall color, attractive seeds or fruit, seeds or fruit eaten by wildlife. Prefers acid soils. Bright, shiny foliage turns red and purple early in the fall. Shallow- rooted.
5	Bur Oak (Mossycup Oak)	<i>Quercus macrocarpa</i>	Slow	Texas native, reliable fall color, attractive seeds or fruit, seeds or fruit eaten by wildlife. Unique leaf shape; large acorn is enclosed in a fuzzy cap. Excellent, drought-tolerant native tree, with rough texture and large acorn.
6	Bitternut hickory (swamp hickory)	<i>Carya cordiformis</i>	Moderate	Large pecan hickory with commercial stands located mostly north of the other pecan hickories.
7	Carolina Basswood (Linden)	<i>Tilia caroliniana</i>	Rapid	Texas native, showy or fragrant flower, attractive seeds or fruit. Large, oval shade tree with interesting winged fruits. Flowers are a favorite of honeybees. Needs plenty of room.
8	Cedar Elm	<i>Ulmus crassifolia</i>	Moderate	Texas native, reliable fall color. Fine textured leaves turn yellow in fall. Tough, drought-tolerant shade tree, well-adapted to a variety of conditions.
9	Cherrybark Oak	<i>Quercus falcata var. pagodifolia</i>	Moderate	Texas native, reliable fall color, seeds or fruit eaten by wildlife. Excellent native shade tree for a variety of planting situations.

10	Chinkapin Oak	<i>Quercus muehlenbergii</i>	Moderate	It is also planted widely as a shade tree suitable for limestone soils. Occurs from northeast Texas to Central Texas and south to the Guadalupe River, and also in the mountains of West Texas, growing on mostly limestone soils, especially at the base of bluffs and along stream courses.
11	Green Ash	<i>Fraxinus pennsylvanica</i>	Rapid	Texas native, reliable fall color. Tolerates a wide range of soil conditions. Needs pruning to develop strong branch structure.
12	Laurel Oak (swamp laurel oak, diamond-leaf oak, water oak, obtusa oak)	<i>Quercus laurifolia</i>	Moderate	Native to the southeastern and south-central the United States, from coastal Virginia to central Florida and west to southeast Texas.
13	Live Oak (Encino)	<i>Quercus virginiana</i>	Rapid	Texas native, seeds or fruit eaten by wildlife. Glossy, deep green leaves remain all winter; long-lived shade tree. Allow plenty of room; can develop surface roots.
14	Loblolly Pine	<i>Pinus taeda</i>	Rapid	Texas native. Medium-length green needles and large, brown cones in the fall. Tolerates a wide range of site conditions, but prefers good drainage.
15	Montezuma Cypress (Bald Cypress)	<i>Taxodium mucronatum</i>	Rapid	Texas native, attractive seeds or fruit. Delicate, feathery foliage casts a light shade. Bark is reddish and shredding.
16	Nuttall Oak	<i>Quercus nuttallii</i>	Moderate	Grows well on heavy, poorly drained, clay soils deposited by rivers.
17	Overcup Oak	<i>Quercus lyrata</i>	Moderate	Texas native, seeds or fruit eaten by wildlife. Small acorns are an important wildlife food source. Tolerates poor drainage and heavy clay soils. (slow to leaf out in the spring).
18	Pecan	<i>Carya</i>	Moderate	Texas native, seeds or fruit eaten by wildlife. Nuts are an important wildlife food. Mature crown is

		<i>illinoensis</i>		open and airy. State tree of Texas. Plant with plenty of room. (slow to leaf out in the spring. Fruit will stain sidewalk).
19	Red Maple	<i>Acer rubrum</i>	Rapid	Texas native, reliable fall color, attractive seeds or fruit. Flowers and winged fruits in spring are red. Brilliant fall color, yellow to red. (Bark is easily injured by weed eater).
20	River Birch	<i>Betula nigra</i>	Rapid	Texas native. Attractive pinkish peeling bark. Works well as multiple trunk specimen. Prefers moist sites like stream banks. Susceptible to ice damage. (Needs high nitrogen to stay healthy).
21	Shumard Oak	<i>Quercus shumardii</i>	Rapid	Texas native, reliable fall color, seeds or fruit eaten by wildlife. Young trees have "candelabra" shape; fall color is orange to deep red. Widely available; prefers well-drained soils. Seed source of trees may determine success.
22	Hybrid Magnolia	<i>Little Gem or D.D. Blanchard</i>	Moderate	Grows better than the Southern Magnolia.
23	Southern Magnolia	<i>Magnolia grandiflora</i>	Moderate	Texas native, showy or fragrant flower, attractive seeds or fruit, seeds or fruit eaten by wildlife. Large, white flowers and glossy, deep green leaves. Plant in well-drained soil and let limbs grow to the ground. Some cultivars tolerate alkalinity.
24	Swamp Chestnut Oak (Cow Oak)	<i>Quercus michauxii</i>	Moderate	Texas native, reliable fall color, seeds or fruit eaten by wildlife. Large leaves turn deep red in fall; large acorns are popular with wildlife. Tolerates seasonal poor drainage, but prefers loamy soils.
25	Sweetgum	<i>Liquidambar styraciflua</i>	Rapid	Texas native, reliable fall color, attractive seeds or fruit. Distinctive star-shaped leaves and round, spiky seed balls. Rapid, upright growth. Fall color ranges from yellow to purple.

26	Sycamore (American Planetree)	<i>Platanus occidentalis</i>	Rapid	Texas native, attractive seeds or fruit. Old bark flakes off to reveal pale new bark. Round fruit is a mass of small seeds. Provide plenty of room and a moist site. (Mexican Sycamore better leaves)
27	Thornless Honeylocust	<i>Gleditsia triacanthos var. inermis</i>	Rapid	Texas native, reliable fall color, attractive seeds or fruit, seeds or fruit eaten by wildlife. Wildlife eat seed pods.
28	Water Oak (Pin Oak)	<i>Quercus nigra</i>	Rapid	Texas native, seeds or fruit eaten by wildlife. Dark green bell-shaped leaves form a dense canopy. This common native does best on well drained, moist sites. (after 60 years prone to insects and disease).
29	White Ash	<i>Fraxinus americana</i>	Rapid	Texas native, reliable fall color .Fall color is yellow, orange, and purple. Male trees are seedless. A relatively clean shade tree. Prefers loamy, well-drained soils.
30	White Oak	<i>Quercus alba</i>	Slow	Texas native, reliable fall color, seeds or fruit eaten by wildlife. Excellent long-lived shade tree. Wildlife eat acorns. Fall color is red. Works best on well-drained, loamy soils.
31	Willow Oak	<i>Quercus phellos</i>	Rapid	Texas native, reliable fall color, seeds or fruit eaten by wildlife. Narrow, light green leaves turn yellow-brown in the fall. Fine twigs and strong branch structure. Prefers moist conditions.

([Ordinance 745](#) , adopted 12/19/17, Section 1)

ARTICLE II. - TREE PRESERVATION^[2]

Footnotes:

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Editor's note— Ord. No. 720, § 1, adopted May 20, 2008, amended Ch. 18, Art. II in its entirety to read as herein set out. Former Art. II, §§ 18-19—18-25, pertained to similar subject matter, and derived from the Code of 2002, §§ 3.1401, 3.1402(a)—(g), 3.1403, 3.1405, and 3.1406, and Ord. No. 562, adopted November 16, 1999.

Sec. 18-19. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Caliper means the diameter of a tree as measured at a point on the tree that is 12 inches above the ambient grade.

Circumference means the circumference of the trunk of a tree measured at a height of 4½ feet above the ground using an ordinary tape measure or diameter tape. If the tree has unusual swells in the trunk at measurement height, measurement shall be taken either below or above the swell at the smallest trunk diameter as close to 4½ feet as possible.

Critical root zone means the area within the drip line of a tree.

Development activity means construction or preparation for construction, and includes grading, clearing and grubbing, and demolition of existing structures.

Drip line means an imaginary circle drawn around a tree extending to the outer tips of the largest branches.

Impervious material means concrete, tar, asphalt, brick pavers or similar paving materials.

Minimum required density means, for a particular lot:

- (1) Seven protected or replacement trees, of which at least three must be located in the front yard, plus one additional protected or replacement tree for every 1,000 square feet of area in excess of 22,500 square feet, up to a maximum of seven additional protected or replacement trees per lot, provided, however, that where a lot contains areas that are not suitable for the location of trees because of topology or other natural features, those unsuitable areas shall not be included in calculating the number of additional protected or replacement trees required in addition to the first seven;
- (2) For a lot that is less than 20,000 square feet in area: a) the minimum number of protected or replacement trees may be reduced to five where the collective circumference of the protected and replacement trees equals 375 inches or more; and b) the minimum number of protected or replacement trees in the front yard may be reduced to two protected or replacement trees where the collective circumference of the protected and replacement trees in the front yard equals 150 inches or more.
- (3) A protected or replacement tree that is located within the public street right-of-way shall not be counted in determining whether a lot has the minimum required density of protected or replacement trees.

Professional means a person with a professional working knowledge of trees, and includes architects, engineers, landscape or tree professionals, arborists, surveyors and any city official approved by the city council.

Property owner means the owner of a lot, tract, parcel or other site, and includes the owner's authorized agents.

Protected tree means any existing tree that has a circumference of 18 inches or more.

Protective fence means a physical barrier that is:

- (1) At least four feet in height;
- (2) Supported by metal posts spaced no wider than eight feet apart; and
- (3) Constructed of chain link fencing or similar material that is effective in preventing the passage of persons, machinery, trash, material or other items.

Replacement tree means a tree that: a) has a caliper of six inches or more; b) is at least ten feet in height; c) is one of the species listed in section 18-27; and d) is planted under the requirement of this article.

Root pruning means a clean cut between the undisturbed and disturbed root zones within the drip line of a tree, commonly done with a rock saw or similar equipment to minimize root damage.

Serious damage means any damage to a tree that will, in reasonable probability, cause the death of the tree or seriously impair its health. The following actions are actions that will cause serious damage to a tree: severing a main trunk or large branches or large roots, girdling, poisoning, carving, mutilating, touching with live wires, piercing with nails or spikes, crushing or exposing the roots, digging or drilling any hole or trench larger than three cubic feet within the critical root zone, covering over a substantial portion of the critical root zone with two inches or more of soil or other nonporous material or compacting a substantial part of the soil in the critical root zone (e.g., driving or parking a vehicle in the critical root zone, or otherwise placing heavy objects within the critical root zone).

Tree disposition and protection plan means a written plan prepared by a professional that shows how the protected trees and critical root zones on the site, and the critical root zones of protected trees that are located off of the site but that have 30 percent or more of their critical root zones within the site, are to be protected, and how replacement trees are to be planted and maintained to encourage survival and sustained growth.

Tree removal permit means a permit issued by the city pursuant to the conditions and requirements of this article, granting permission and authority to remove protected trees from a site.

Tree survey means a survey of the protected trees on a site. A tree survey must be prepared by a professional and must include:

- (1) The location, size, and species of all existing protected trees on the site;
- (2) A designation, by species, size and location, of all protected trees proposed to be removed or destroyed;
- (3) A designation of all proposed new and/or replacement trees by species, size and location;
- (4) Outlines of all existing and proposed structures, paved surfaces, swimming pools, fences, sprinkler systems, utilities and other improvements and structural features on the site;
- (5) A scale, north arrow, name, address, phone number, and profession or occupation of the person who prepared the tree survey; and
- (6) The name of the owner of the site and/or the builder or developer of the site.

Urban forester means the professional so designated by the city council.

(Ord. No. 720, § 1, 5-20-2008; Ord. No. 722, § 1, 7-15-2008; Ord. No. 779, § 1, 11-8-2011)

Sec. 18-20. - Preservation and protection of trees.

- (a) *Intent.* The intent of this section is to encourage site planning which furthers the preservation of trees and natural areas by these methods: to protect trees during construction; to facilitate site design and construction which contribute to the long-term viability of existing trees; to control the unnecessary removal of larger trees; and to require on-site replacement of larger trees that must be removed during development activities. It is the further intent of this article to achieve the following broader objectives:
 - (1) Protect healthy trees and preserve the natural, ecological, environmental and aesthetic qualities of the city;
 - (2) Protect and increase the value of properties within the city;
 - (3) Prohibit the indiscriminate clearing or clear cutting of property;
 - (4) Maintain and enhance a positive image toward the city;
 - (5) Prevent the unnecessary removal of protected trees and to provide for remediation where removal is unavoidable.
- (a-1) *Replacement.* Given the conduciveness of the city's topography and natural conditions to arboreal viability, and in light of the minimum lot size requirements applicable to each lot in the city, it is the further intent of this article to achieve the foregoing objectives by requiring the replacement of trees as specified in this article solely through enforcing specific performance and not by imposing any tree mitigation fee or similar monetary charge.
- (b) *Tree removal permit required.* It is unlawful for any person to remove or to intentionally, or with criminal negligence, cause serious damage to any protected tree within the city without having first obtained from the city a tree removal permit.
 - (1) *Removal in connection with site development or construction.*
 - a. *Generally.* A property owner who seeks a permit to remove one or more protected trees in order to develop or construct improvements on a site must submit to the building official a current tree survey and tree disposition and protection plan. The city shall grant a tree removal permit if the applicant demonstrates that, for each protected tree that is to be removed, the removal is necessary in order to make a reasonable use of the site, and that all alternatives to removal, including redesign of the proposed improvements, have been considered.
 - b. *Restrictions on additional removals.*
 - 1. Where a permit is granted to remove protected trees in order to develop or construct a particular improvement on a site, and the subject trees are actually removed, no permit shall be granted for the removal of additional protected trees from the site for the construction of a similar improvement for a period of five years following the date the first permit was issued.
 - 2. For example, if a permit is granted for the removal of trees for the construction of a proposed new residence and the property owner, or his successor in title, elects not to build that proposed residence, any new proposed residence on the site must be designed to fit within the area from which protected trees have been removed and cannot require the removal of additional protected trees.
 - 3. The purpose of this provision is to prevent the unnecessary removal of protected trees based on speculative construction or development plans and to encourage property owners to seek removal of trees only when the proposed improvements will actually be constructed.
 - 4. For the purposes of this article, the filing of an application for removal of protected trees for the construction of a particular improvement is deemed to be an admission, by the applicant, that a reasonable improvement of the type desired can be constructed on the site without removing any additional protected trees.

- (2) *Other removal.*
 - a. A property owner who otherwise seeks a permit to remove a protected tree must file an application with the city describing the location, species, and size of the protected tree that is to be removed and explaining the reason that removal is desired. The city shall grant a removal permit if the applicant demonstrates that:
 - 1. The protected tree in question is severely damaged, diseased or dead;
 - 2. The protected tree constitutes an unreasonable impediment to the use and enjoyment of the site because of its location or size;
 - 3. The tree is of an undesirable species that has characteristics that interfere with the property owner's use and enjoyment of the site;
 - 4. The removal of the tree is necessary for safety reasons including, but not limited to, a branch overhanging a structure, a severely leaning tree, or a tree with a seriously damaged root system that poses a reasonable threat of falling.
 - b. Notwithstanding any other provision of this chapter, a property owner is not required to obtain a permit to remove a single protected tree that is severely damaged, diseased or dead or that must be removed for safety reasons, including but not limited to, a branch overhanging a structure, a severely leaning tree, or a tree with a seriously damaged root system that poses a reasonable threat of falling.
- (3) *Emergency removal.* Where the dangerous condition of a protected tree requires its immediate removal to protect against a serious and immediate risk to health, safety or property, a property owner may remove a protected tree without first obtaining a permit. However, within seven calendar days after removing the tree, the property owner must file with the building official a written statement describing the protected tree by size, species, and location and explaining the emergency conditions that required its immediate removal.
- (c) *Tree survey and tree disposition and protection plan required.* Except as provided in subsection (c)(2) below, for small projects, no permit shall be granted for any site work or construction activity in the city unless and until a current tree survey and tree disposition and protection plan for the subject lot, and any property within ten feet of the subject lot, has been submitted to the city and approved by the urban forester.
 - (1) *Small projects exception.* Neither a tree survey nor a tree disposition and protection plan is required for projects that meet the following requirements as determined by the building official:
 - a. The construction work or other activity contemplated by the permit is of a type and scope that presents little risk of serious damage to any protected trees on the site; and
 - b. The owner, or his authorized agent, has certified to the city in writing that no protected trees will be removed or seriously damaged during the construction work or other activity.
 - (2) *Single tree exception.* Neither a tree survey nor a tree disposition and protection plan is required where a property owner seeks to remove a protected tree for any of the reasons set out in subsection 18-20(b)(2).
- (d) *Utility right-of-way maintenance.*
 - (1) An employee of a public utility, or an authorized contractor working in a dedicated public right-of-way, drainage or utility easement, may in the course of business, prune that portion of a tree, including a protected tree, that prohibits the safe construction, operation, repair or maintenance of a service line or facility. Trees must be pruned no more than is reasonably necessary for the construction, operation, repair or maintenance of the service line or facility, and any pruning shall be in accordance with the specifications set forth by the National Association of Arborists. No tree permit, tree survey or tree disposition and protection plan is required for work performed under these circumstances.

- (2) Trees, including protected trees, that are outside the public right-of-way or utility easement, that are severely damaged, diseased or dead and that present a risk of damaging a public utility service line or facility may be removed by an employee or authorized contractor of the public utility whose service line or facility is at risk of damage, provided that utility has the consent of the tree owner. Such work will require a permit for removal, but no tree survey or tree disposition and protection plan is required. No permit fee shall be charged for issuance of a permit under this subsection.
- (e) *Tree replacement.*
- (1) *Generally.* A property owner must maintain the minimum required density of protected and replacement trees on the owner's lot at all times and, if the lot falls below the minimum required density because of the loss or removal of a tree or trees, regardless of cause, the property owner shall plant and maintain a sufficient number of replacement trees to meet the minimum required density. If a lot fall below the minimum required density because of the loss of one or more protected or replacement trees, the property owner shall, within 30 days after the removal or loss, plant a sufficient number of replacement trees to restore the minimum required density.
 - (2) *Special rule for removals related to driveway construction.* Where protected trees are removed from a front yard in order to relocate or expand a pre-existing driveway, the property owner must plant one replacement tree in the front yard for every protected tree that is removed from the front yard. Tree replacement is required under this provision regardless of whether replacement would have been required under subsection (e)(1), above.
 - (3) *Location requirements for new home construction.* Where a new home is to be constructed on a site, the tree disposition and protection plan must include provisions for preserving or planting and maintaining at least three protected or replacement trees in the front yard.
 - (4) *Timing of planting.* Any replacement tree required under this article shall be planted within 30 days after the loss or removal of the tree it is to replace, except in the case of new construction. Provided however, that the building official may grant a written extension if the property owner:
 - a. Applies for the extension in writing, and within 30 days after the loss or removal; and
 - b. Demonstrates that replacement within 30 days is not practical because of ongoing construction or weather conditions.
- In the case of new construction, the replacement tree must be planted before a certificate of occupancy is issued.
- (5) *Exceptions to replacement requirements.* No replacement tree shall be required if because of the topography or natural conditions of the lot, or the location of permitted structures and other improvements to the lot, it is not reasonably possible to plant and maintain an otherwise required replacement tree. The city council shall be the final authority to determine whether planting a replacement tree is reasonably possible.
 - (6) *Replacement of trees that die within five years after construction activity.* A property owner shall plant replacement trees for any protected trees that die within five years after the date of completion of any outside construction activity on the property, regardless of whether the lot would have the minimum required density without the replacement. Provided however, that no replacement shall be required if the property owner can demonstrate that the death of the tree or trees was not related to the construction activity.
- (f) *Protection of trees during site preparation or construction activity.* Protected trees, whether located on the subject site or within ten feet of the subject site, must be protected from serious damage during construction activity in accordance with the following requirements, provided, however, that the urban forester may allow modification of the requirements upon a determination that unique circumstances exist and that a strict application of the requirements would result in undue hardship to the owner of the site.

- (1) *Prohibited activities.* The following activities are prohibited within the drip line of any protected tree:
 - a. *Material storage.* No materials intended for use in construction accumulated due to excavation or demolition shall be placed within the limits of the drip line of any protected tree.
 - b. *Equipment cleaning; liquid disposal.* No equipment shall be cleaned, and no liquids other than clean water shall be deposited, within the limits of the drip line of any protected tree. Prohibited liquids include but are not limited to paint, oil, solvents, asphalt, concrete, mortar or other materials.
 - c. *Tree attachments.* No signs, wires or other attachments, other than those of a protective nature and that have been approved in the tree disposition and protection plan, shall be attached to any protected tree.
 - d. *Vehicular traffic.* No vehicle, construction equipment or other parking shall be allowed within the limits of the drip line of any protected tree.
 - e. *Trespassing; trash.* Trespassing or throwing trash into a protective fence area is prohibited.
- (2) *Required procedures.* The following procedures shall be followed prior to and during any development activity on a site until a certificate of occupancy has been issued by the city:
 - a. *Protective fencing; root protection.* Unless otherwise approved in the tree disposition plan, the critical root zone of each tree or group of trees to be preserved must be enclosed by a protective fence during all development activity and until a certificate of occupancy has been issued by the city. Each protective fence shall be marked with signs stating "OFF LIMITS" and "NO TRASH" (or equivalent) in both English and Spanish.
 - b. *Mulch.* If development activity is to take place within the critical root zone of any tree, the protective fence shall cover the area on which no development activity is to take place, and the balance of the critical root zone for such tree or group of trees must be covered with at least six inches of organic or wood chip mulch and covered with three-fourths inch plywood or road boards in order to protect the roots from soil compaction.
 - c. *Fence, mulch removal.* It shall be unlawful for any person to remove any portion of any protective fence or mulch and road boards for any period of time during any development activity, unless otherwise specified in the tree disposition plan.
 - d. *Tree flagging.* All trees to be removed from the site shall be flagged with orange vinyl tape (flagging) wrapped around the main trunk at a height of four feet or more. After receipt of the tree removal permit, the owner of the site or his agent shall paint with orange paint an "X" on the tree approved for removal at a height of four feet or more so that the paint is visible to workers on foot or operating heavy equipment.
 - e. *Trunk protection.* In situations where a tree remains in the immediate area of intended development activity, the tree shall be protected by enclosing the entire circumference of the tree's trunk with lumber, at least eight feet high, banded by wire or other means that does not damage the tree.
 - f. *Construction pruning.* If a tree has a low canopy, or limbs that may be broken during the course of construction, and if specified and approved by the urban forester in the tree disposition plan, the obtrusive limbs may be cut. Pruning should be done according to the National Association of Arborists Standards.
 - g. *Supplemental feeding, watering.* Protected trees should receive supplemental water during times of drought or low rainfall. Plans for feeding and watering must be prepared by a professional, who is retained by the owner or his agent and must be included in the tree disposition and protection plan.

- (3) *Design constraints.* Design constraints may dictate that in certain circumstances some protected trees will have some encroachment of their critical root zone. The following is the minimum design criteria allowed within the critical root zone of a protected tree:
- a. *Change of grade.* In the event that grade changes must be made around a protected tree, the following procedures shall be followed unless otherwise approved in the tree disposition plan:
 1. No cut or fill of the ambient grade greater than two inches shall be located close to the trunk of a protected tree if the cut or fill covers more than one-half of the radius of the critical root zone. If these provisions cannot be complied with, the following provisions shall apply:
 - (i) *Increase in grade.* The owner shall construct tree wells around the drip line of a tree which shall be of a design that provides for proper aeration and drainage of the critical root zone; or
 - (ii) *Decrease in grade.* The owner shall construct retaining walls around the drip line of a tree to mitigate cuts.
 2. If development activity causes standing water or wet soil conditions which are detrimental to a species of tree on a site or adjacent property, adequate drainage shall be provided in the tree disposition and protection plan in order to prevent suffocation and/or root rot of the affected tree.
 - b. *Underground utilities.* Boring for the installation of underground utilities is permitted under protected trees in certain circumstances. The minimum depth of the bore shall be 30 inches. In special circumstances approved by the urban forester, trenching for underground utilities may be permitted with respect to all such protected trees. If utility trenching is approved, the following procedures must be adhered to:
 1. Root pruning shall take place at least two weeks prior to any trenching;
 2. Root pruning shall be supervised by a professional;
 3. The utility trench must be backfilled less than 24 hours after it is dug; and
 4. A root remediation schedule must be addressed in the tree disposition plan.
 - c. *Irrigation systems.* Irrigation systems shall be designed to avoid trenching across the critical root zone of any protected tree.
 - d. *Paving and impervious material.* A maximum of 25 percent of the critical root zone of a protected tree may be covered with impenetrable material, such as concrete, tar or asphalt.
 - e. *Procedures when using impervious materials.* If the design plans for the site call for any impervious material over any part of the critical root zone of a protected tree, the following procedures shall be adhered to:
 1. Root pruning shall be done six inches to one foot behind the proposed curb line and shall take place at least two weeks prior to any fill or cut;
 2. Root pruning and necessary limb pruning shall be supervised by a professional;
 3. A plastic vapor barrier of construction grade shall be installed between the roots of a protected tree and the impervious material so as to inhibit leaching of lime into the soil; and
 4. A root remediation schedule must be addressed in the tree disposition plan.

(Ord. No. 720, § 1, 5-20-2008; Ord. No. 722, §§ 2, 3, 7-15-2008; Ord. No. 750, § 1—3, 12-8-2009; Ord. No. 779, §§ 2, 3, 5, 11-8-2011; Ord. No. 2018-882, §§ 1, 2, 1-23-2018)

Sec. 18-21. - Tree replacement payments and fund.

- (a) A property owner who removes a protected tree pursuant to a valid permit, or in an emergency situation, shall provide a replacement tree, as and to the extent required under section 18-20(e).
- (b) A property owner who removes a protected tree in violation of this chapter shall provide a replacement tree of the same caliper size and species as the tree that was illegally removed. If it is not feasible to provide a replacement tree of the same caliper size as the protected tree that was removed, the property owner shall provide a replacement tree of the same species as the protected tree and having the largest caliper size (not less than three inches) that is feasible. The measurement of diameter shall be made at a point on the trunk of the tree that was six inches above the ambient grade immediately before the protected tree was removed. The city council shall be the final authority to determine whether planting a replacement tree of any particular caliper size is feasible.

(Ord. No. 720, § 1, 5-20-2008; Ord. No. 2018-882, § 3, 1-23-2018)

Sec. 18-22. - Urban forester.

- (a) *Appointment.* The city council has the authority to hire a professional as the urban forester for the city. The professional designated as the urban forester must hold at least a bachelor's degree from an accredited college or university in urban forestry or horticulture or must have equivalent arboricultural skills and experience.
- (b) *Duties.* The permit secretary or the building official of the city shall deliver to the urban forester all tree disposition and protection plans, tree surveys, applications for tree removal permits and other documents reasonably requested in connection with any or all of the requirements of this article. The urban forester shall work with each owner and/or builder on the site, and appropriate officials of the city in order to administer and enforce the provisions of this article, as the same may be amended from time to time. The urban forester shall establish categories of simple and routine or low-risk development activity, the applications for which may be handled summarily without submission to the urban forester.

(Ord. No. 720, § 1, 5-20-2008)

Sec. 18-23. - Appeal of permit denials.

- (a) An applicant whose request for a tree removal permit has been denied by the building official may appeal that decision to the board of adjustment by filing a written notice of appeal with the city secretary.
- (b) The board of adjustment shall schedule a hearing on the appeal for a date within 45 days after the date the notice of appeal is received in the office of the city secretary. The hearing may be held at any regular meeting of the board of adjustment.
- (c) At the hearing, the board of adjustment shall provide the applicant an opportunity to present evidence and arguments demonstrating that the applicant is entitled to a permit under the terms of this article and that the building official erred in denying the permit.
- (d) The board of adjustment may hear and consider any other evidence relevant to the issue of whether the applicant is entitled to a permit.
- (e) If, at the conclusion of the hearing, a majority of the board of adjustment determines that the applicant has met the requirements of this article and is entitled to a permit, it shall order the building official to issue a permit. Otherwise, the decision of the building official to deny the permit shall be affirmed.

(Ord. No. 722, § 5, 7-15-2008; Ord. No. 779, § 6, 11-8-2011)

Sec. 18-24. - Violations.

- (a) It shall be unlawful for any person to fail or refuse to comply with the requirements of this article or any permit issued pursuant hereto.
- (b) The city's building official or urban forester may withhold or withdraw (red flag) any permit issued or to be issued pursuant to this article, or refuse to issue a certificate of occupancy, if any condition or requirement of this article or such permit is not fulfilled.

(Ord. No. 720, § 1, 5-20-2008; Ord. No. 722, § 4, 7-15-2008; Ord. No. 2018-882, § 4, 1-23-2018)

Sec. 18-25. - Penalty.

Any person who violates any provision of this article shall be deemed guilty of a misdemeanor. The owner of a site where any violation of this article shall occur, and any agent, contractor, builder, architect or other person who shall assist in the commission of such offense, shall be guilty of a separate offense.

(Ord. No. 720, § 1, 5-20-2008; Ord. No. 722, § 4, 7-15-2008)

Sec. 18-26. - Affirmative defenses.

It shall be an affirmative defense to prosecution, under this article, that immediate action to remove, seriously damage or kill the tree in question was necessary to prevent harm to persons or property.

(Ord. No. 720, § 1, 5-20-2008; Ord. No. 722, § 4, 7-15-2008)

Sec. 18-27. - Species of trees approved for use as replacement trees.

The following species of trees are approved for use as replacement trees. The urban forester may approve the use of species that are not on this list if the urban forester determines that the species is suited to the local climate, likely to grow into a protected tree, and not likely to create nuisance conditions.

Approved Tree List for Hunters Creek Village		
Common Name	Species	Family Name
Chalk maple	Acer leucoderme	Aceraceae
Drummond red maple	Acer rubrum var.drummondi	Aceraceae
American hornbeam	Carpinus caroliniana	Betulaceae
American beech	Fagus grandifolia	Fagaceae

White oak	Quercus alba	Fagaceae
Swamp white oak	Quercus bicolor	Fagaceae
Southern red oak	Quercus falcate	Fagaceae
Sand live oak	Quercus geminata	Fagaceae
Laurel oak	Quercus hemisphaerica	Fagaceae
Swamp laurel oak	Quercus laurifolia	Fagaceae
Overcup oak	Quercus lyrata	Fagaceae
Bur oak	Quercus macrocarpa	Fagaceae
Sand post oak	Quercus margaretta	Fagaceae
Swamp chestnut oak	Quercus michauxii	Fagaceae
Chinkapin oak	Quercus muchlenbergii	Fagaceae
Water oak	Quercus nigra	Fagaceae
Nuttall oak	Quercus nuttallii	Fagaceae
Willow oak	Quercus phellos	Fagaceae
Shumard oak	Quercus shumardii	Fagaceae
Post oak	Quercus stellata	Fagaceae
Black oak	Quercus velutina	Fagaceae
Live oak	Quercus virginiana	Fagaceae
Sweetgum	Liquidambar stryrciflua	Hamamelidaceae
Pecan	Carya illino	Juglandaceae

Black hickory	Carya texana	Juglandaceae
Sassafras	Sassafras albidum	Lauraceae
Southern magnolia	Magnolia grandiflora	Magnoliaceae
Sweet bay magnolia	Magnolia luidiviana	Magnoliaceae
Black gum	Nyssa sylvatica	Nyssaceae
Shortleaf pine	Pinus echinata	Pinaceae
Longleaf pine	Pinus palustris	Pinaceae
Loblolly pine	Pinus taeda	Pinaceae
Weeping willow	Salix babylonica	Salicaceae
Bald-cypress	Taxodium distichum	Taxodiaceae
Montezuma cypress	Taxodium mucronatum	Taxodiaceae
Winged elm	Ulmus alata	Ulmaceae
Scan elm	Ulmus Americana	Ulmaceae
Cedar elm	Ulmus crassifolia	Ulmaceae

(Ord. No. 720, § 1, 5-20-2008; Ord. No. 722, § 4, 7-15-2008)

Secs. 18-28—18-53. - Reserved.

ARTICLE III. - TREE PRESERVATION, MITIGATION, AND MAINTENANCE

Sec. 102-100. - Definitions.

The following terms shall have the meanings herein assigned to them:

Caliper inch is a unit of measurement used to state in inches the diameter of a tree's trunk at the tree's correct measurement height.

Certified arborist means a person who currently holds the Certified Arborist credential awarded by the International Society of Arboriculture (ISA).

Critical root zone is the area of ground around a tree that extends from the trunk to the dripline.

Diameter at breast height or *DBH* is the diameter of a tree's trunk measured at a height of 4.5 feet from base of the tree at grade level.

Dripline means an imaginary line around a tree that corresponds with the outermost edge of the canopy of said tree if projected directly downward. When depicted on a survey or site plan, the dripline of a tree will generally appear as an irregularly shaped circle that follows the contour of the branches of the tree.

Invasive tree refers to a tree that threatens native trees by competing for resources and habitat as noted in the invasive tree list

Large tree is a tree of a species listed under "large trees" the protected tree list in this article.

Park tree includes trees, shrubs, bushes and all other woody vegetation that is planted in public parks and all areas owned by the city, or to which the public has free access as a park.

Protected tree is any large tree that measures at least 12 caliper inches, any small tree that measures at least six caliper inches, or any significant tree.

Replacement cost represents the cost to replace existing protected trees proposed to be removed from a site as measured in caliper inches.

Responsible person means a record owner of the real property at which a tree impact activity occurs, or the person that actually engages in the tree impact activity.

Significant tree any tree of the oak or pecan species that measures at least 38 caliper inches.

Small tree is a tree of a species listed under "small trees" the protected tree list in this article.

Street tree includes trees, shrubs, bushes and all other woody vegetation that is planted between the edge of a paved roadway, whether public or private, and the sidewalk, or in the absence of a sidewalk, planted within ten feet of the edge of the paved roadway.

Tree means a woody plant having a well-defined trunk(s), a defined crown and a mature height of at least 15 feet.

Tree canopy represents the total vertical transect of all trees on a single site or within a designated area beginning at DBH and extending to the crown of all trees within the area.

Tree disposition plan specifies how trees on the protected tree list will be protected from development and pre-development activity proposed at a particular site. Such plan includes the preliminary route of utilities and tree protected zone limits, as defined in this article III, and a proposed development footprint for all protected trees.

Tree impact activity means any action that may result in the decline in health and/or death of a tree, including but not limited to: pruning of large limbs, tree topping, destruction of bark leading to scarring on trunk, or activities (such as construction and/or soil compaction) conducted within the critical root zone.

(Ord. No. 2018-28, § 1, 9-25-2018)

Sec. 102-101. - Permit required.

- (a) Except as otherwise provided in this article, a tree disposition permit shall be obtained by a responsible person prior to authorizing or subjecting a protected tree to any tree impact activity or tree removal.
- (b) A tree disposition permit is valid for a period of six months from the date of issuance.
- (c) No tree disposition permit may be issued to allow the removal, cutting down, or other activity intended to kill or destroy a healthy significant tree, unless the planning director determines that the failure to grant such a permit would result in violation of state or federal law.

(Ord. No. 2018-28, § 1, 9-25-2018)

Sec. 102-102. - Permit application requirements.

A tree disposition permit may be issued by the city arborist only upon the submission and approval of the following:

- (1) An application that includes:
 - a. The applicant's name, address, and phone number;
 - b. The address of the property at which a tree impact activity or tree removal is sought;
 - c. The name, address, and phone number of the person or entity that will actually perform the tree impact activity or tree removal, if not the applicant; and
 - d. The name, address, and phone number of the owner of record of the property at which a tree impact activity or tree removal is sought, if not the applicant.
- (2) A tree disposition plan certified by a licensed surveyor, a certified arborist or registered landscape architect, that:
 - a. Identifies:
 - 1. The protected trees sought to be subjected to a tree impact activity or tree removal at the site, according to location, type and size;
 - 2. Location and total caliper inches of invasive species to be removed, if seeking credit for elimination of invasive species;
 - 3. Areas of construction or other activities to be performed within the critical root zone of a protected tree, including site plans documenting measures to be taken for protection of each impacted critical root zone;
 - b. Includes tables summarizing the total caliper inches of protected trees to be removed in size categories as follows:
 - 1. For small trees:
 - i. Six-inch to nine-inch caliper;
 - ii. Greater than nine-inch to 12-inch caliper; and
 - iii. Greater than 12-inch caliper.
 - 2. For large trees:
 - i. Twelve-inch to 15-inch caliper;
 - ii. Greater than 15-inch to 18-inch caliper; and
 - iii. Greater than 18-inch caliper; and

- c. States the total number of caliper inches to be replaced, calculated using the tree replacement calculation set forth below, and how replacement will be achieved, whether by on-site replacement or off-site replacement, or payment in lieu of replacement; and
 - d. Includes the proposed plan for tree replacement by location, type and size, if applicable;
- (3) An application fee in an amount as set by the city council; and
- (4) One of the following:
- a. A cashier's check or money order for the full amount of the payment in lieu of replacement; or
 - b. A cash escrow, bond, letter of credit, or other acceptable security instrument securing an amount equal to a full payment in lieu of replacement, which by its terms:
 - 1. Can be redeemed or called by the city one year from the date the tree disposition permit is issued, if not earlier released; and
 - 2. Can only be released upon the city's approval, which approval the applicant may request only after completion of all replacement planting.

(Ord. No. 2018-28, § 1, 9-25-2018)

Sec. 102-103. - Tree replacement calculation.

- (a) Tree replacement calculations are based upon the following guiding principles:
- (1) Greater value is placed on protected trees of greater size, therefore caliper inch replacement is increased as the size of each tree increases;
 - (2) Greater value is placed on maintaining trees on-site, therefore caliper inch replacement is increased if replacement occurs off-site or through payment in lieu of replacement;
 - (3) Greater value is placed on maintaining large or interconnected conservation areas, therefore exceptions and incentives are available to maintain these areas;
 - (4) Invasive tree species harm the native tree canopy, therefore incentives are available for elimination of species shown in the invasive tree list in this article; and,
 - (5) Protection and maintenance of the community's tree canopy is more critical than equal replacement of individual trees, therefore replacement calculations result in a total number of caliper inches to be replaced as measured following application of the above principles.
- (b) The diameter at breast height of each protected tree to be removed from the site shall be measured to determine size in caliper inches.
- (c) Replacement of removed trees shall be achieved utilizing one of the following three methods, in accordance with the applicant's written election:
- (1) On-site replacement in accordance to all standards and requirements of the city;
 - (2) Off-site replacement in parks, dedicated conservation areas or selected rights-of-way at the direction of the city planner or city arborist; or
 - (3) Payment in lieu of replacement to the city reforestation and tree management fund to be used for public reforestation and maintenance of protected trees on public property or significant trees on public or private property.
- (d) Caliper inch replacement of each protected tree shall be calculated in accordance with table XX.

Table XX. Caliper Inch Replacement of a Protected Tree
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	On Site Replacement	Off Site Replacement or Payment in Lieu
<i>Small Trees</i>		
6" to 9"	100 percent	120 percent
9.1" to 12"	100 percent	130 percent
Greater than 12"	130 percent	140 percent
<i>Large Trees</i>		
12" to 15"	100 percent	120 percent
15.1" to 18"	100 percent	130 percent
Greater than 18"	130 percent	140 percent

- (e) Payment in lieu shall be calculated at a rate of \$250.00 per caliper inch of required replacement tree(s).
- (f) The city planner or city arborist shall have the discretion to reduce tree replacement requirements the removal of invasive trees on-site or off-site in accordance with standards established by the city arborist. Reduction of caliper inch replacement if granted shall be calculated in accordance with table XY.

Table XY. Reduction of Caliper Inch Replacement for Removal of Invasive Trees	
Caliper Inches of Invasive Trees Removed	Percent Reduction in Total Caliper Inches
50" to 150"	5 percent
150.1" to 300"	10 percent
300.1" to 500"	15 percent
Greater than 500"	20 percent

(Ord. No. 2018-28, § 1, 9-25-2018)

Sec. 102-104. - Tree replacement standards.

- (a) Replacement trees shall be selected from the protected tree list according to available planting space and specific environmental requirements of the tree and shall be a minimum of (i) three caliper inches measured one foot above grade, and (ii) seven feet in height.
- (b) Replacement trees shall be planted according to tree planting standards established by the International Society of Arboriculture, with a minimum of 15 feet spacing for small trees and a minimum of 30 feet spacing for large trees, unless otherwise approved by the city arborist.
- (c) Replacement trees must be planted within one year from the date the tree disposition permit is issued. The applicant shall notify the city arborist after the replacement trees have been planted so that they may be inspected. If the replacement trees are not planted within this time, the city attorney is authorized to take all legal steps to recover payment in lieu from the applicant to satisfy the mitigation requirements.

(Ord. No. 2018-28, § 1, 9-25-2018)

Sec. 102-105. - Exceptions.

- (a) The owner of record of a legally conforming single-family residence may remove or subject any tree on that property to a tree impact Activity, without a tree disposition permit and without mitigation.
- (b) A tree disposition permit may be issued, without requiring mitigation, to remove a protected tree if the tree is:
 - (1) Injured, dying, diseased or infested with harmful insects to the extent that it is not likely to survive as determined and documented by the city arborist; or
 - (2) In danger of falling, interfering with utility service or other creating a hazardous or dangerous condition as determined and documented by the city arborist.
- (c) If the owner of a protected tree believes that an emergency situation exists that requires the immediate removal of said tree to protect the safety of persons or property, the owner may subject the tree to a tree impact activity or remove the tree without a tree disposition permit, but only to the extent necessary to eliminate the dangerous situation. A person that claims this exception shall:
 - (1) Apply for a tree disposition permit on the next working day; and
 - (2) Be able to substantiate the claim of an emergency situation to the reasonable satisfaction of the city arborist by providing evidence of the dangerous condition such as, but not limited to, a letter from a certified arborist and/or digital images.

(Ord. No. 2018-28, § 1, 9-25-2018)

Sec. 102-106. - Appeals.

- (a) An applicant may appeal the planning director's decision to not grant a tree disposition permit for the removal of a significant tree to the city council by filing the following with the city secretary's office:
 - (1) A written notice of appeal within ten business days from notification of the planning director's decision;
 - (2) A written legal opinion from an attorney licensed in Texas that details how the failure to grant the permit would violate state or federal law, within 30 days of the filing of the notice of appeal; and

- (3) A site plan for the subject property showing the locations of the significant tree and the proposed improvement(s) that not removing the significant tree would render unfeasible, within 30 days of the filing of the notice of appeal.
- (b) An applicant may appeal to the city manager the calculation of the total caliper inches of replacement trees required by filing with the city secretary's office a written notice of appeal within ten business days from notification by the city arborist of the tree replacement calculation, setting forth the reason(s) and including the documentation for any contention that the calculation of caliper inches of replacement trees is too high.

(Ord. No. 2018-28, § 1, 9-25-2018)

Sec. 102-107. - Offense; restitution.

- (a) Any person who recklessly removes or subjects a protected tree to a tree impact activity without a valid tree disposition permit authorizing such action shall be guilty of a misdemeanor, which shall be punishable by a fine not to exceed \$500.00. Each subsequent day that elapses without the person obtaining a tree disposition permit shall constitute a separate offense.
- (b) In any prosecution under this section, the prosecuting attorney shall seek and the judge is authorized to award restitution to be paid into the city reforestation and tree management fund, in an amount calculated by the city arborist pursuant to the provisions below:
 - (1) For removal of protected trees not including any significant tree, the city arborist shall:
 - a. Assume that each tree on site is a large protected tree measured at 18 caliper inches with an individual tree canopy of 2,200 square feet;
 - b. Determine total caliper inches to be replaced by measuring the total tree canopy covering the site prior to removal of trees using aerial imagery acceptable to the city of league city; and
 - c. Calculate replacement cost in accordance with payment in lieu requirements of this article with an additional 100 percent penalty.
 - (2) Restitution for removal of a significant tree shall be equal to the payment in lieu value of the tree, as determined by the city arborist, plus an additional 200 percent penalty.
 - (3) For subjecting a protected tree to a tree impact activity, the city arborist shall:
 - a. Calculate a payment in lieu amount as if the protected tree had been removed pursuant to a tree disposition permit, if the tree is not a significant tree;
 - b. Calculate a payment in lieu amount and add a penalty of 100 percent if the tree is a significant tree; or
 - c. Adjust the restitution amount calculated pursuant to this section, if in the sole and reasonable judgment of the city arborist the restitution so calculated is disproportionate to the level of disturbance or alteration of the tree.

(Ord. No. 2018-28, § 1, 9-25-2018)

Sec. 102-108. - Tree preservation standards.

- (a) Maintenance practices, including but not limited to large limb pruning and canopy thinning, of a protected tree shall be in accordance with best practices as approved by a certified arborist or the city arborist.
- (b) The critical root zone of a protected tree shall be protected as follows:

- (1) No materials intended for construction or waste materials from grading, excavation or demolition shall be allowed to accumulate.
 - (2) No equipment shall be cleaned in such close proximity to allow harmful liquids to be deposited or flow overland and/or runoff into the critical root zone.
 - (3) No vehicular or construction equipment may be parked in or on a critical root zone.
 - (4) No grade changes shall be allowed in a critical root zone.
 - (5) A protective barrier, such as a temporary fence, shall be installed to protect the critical root zone prior to and throughout the duration of any work and/or improvements that occur on a property containing a protected tree.
- (c) Any utilities to be installed below the canopy of a protected tree, shall be bored, not trenched, and shall be so shown on the tree disposition plan.
- (d) Trees requiring support systems shall be secured according to type and size. Tree staking, cabling, and other materials shall remain in place only until the tree has been established, which time period shall not to exceed one year.

(Ord. No. 2018-28, § 1, 9-25-2018)

Sec. 102-109. - Tree maintenance standards.

- (a) *Maintenance of trees within the rights-of-way.* The owner(s) of any lot with frontage along a public street, including a property owners association, shall maintain the street trees and other landscaping growing along the frontage or in the street right-of-way adjacent to the lot, including in any park or parking strip between the property line and the street line.
- (b) *Tree topping.* Topping (also referred to as heading, stubbing, rounding or dehorning) of any street tree, park tree, or other tree on public property is prohibited. Topping involves the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. The city manager, upon the recommendation of the city arborist, may specifically authorize in writing topping of a specific tree, based on clear evidence of extraordinary circumstances that justify topping. Extraordinary circumstances may include but not be limited to, trees severely damaged by storms or other causes, or trees under utility wires or other obstructions where other pruning practices are impractical.
- (c) *Pruning, corner clearance.* The owner(s) of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street light or obstruct the view of any street sign or intersection, and so that there shall be a clear space of 15 feet above the surface of the street and/or sidewalk. Pruning includes crown cleaning, thinning, raising, reduction, and restoration. The pruning of trees must comply with tree trimming guidelines in the American National Standard for Tree Care Operations: Tree Shrub and Other Woody Plant Maintenance Standard Practices, or National Arborist Association's "Standards for Pruning of Shade Trees." Said owners shall also remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public.
- (d) If the property owner fails to prune trees to provide clearances stated, the city arborist is authorized to notify the owners of such trees in writing of their responsibility. Pruning shall be done by said owners at their own expense within ten days after the date of service of notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to prune such trees and charge the cost of removal to the owners.
- (e) *Removal of dead or diseased trees on private property.* A tree disposition permit is required to remove a protected tree. The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The city shall notify in writing the owners of such trees. Removal shall be done by said owners at their own

expense within 30 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal to the owners.

- (f) *Emergency removal provision.* If the city arborist determines that a tree poses an imminent threat, the city may secure the surrounding area and/or remove the hazardous tree.
- (g) *Removal of stumps.* Street and park trees that are removed shall have their stumps ground to grade level or removed.

(Ord. No. 2018-28, § 1, 9-25-2018)

Sec. 102-110. - Street trees.

- (a) *Minimum distance from sidewalks and curbs.* Trees shall be centered in the planting strip between the sidewalk and the street curb. If centering within the planting strip is not possible or desirable due to design considerations, the tree must be located at least two feet from the sidewalk edge or the curb edge. Trees within the city rights-of-way shall not be planted where the rooting space is less than four feet in width without prior approval of the city arborist. The minimum width of a planting site for each tree will be governed by the approved street tree list. Trees that commonly produce a large-buttress root system shall be planted in a site greater than ten feet wide (i.e., *Quercus* species). On public streets without sidewalks, trees shall be located to accommodate future sidewalk placement and, current and future utility line corridors.
- (b) Tree root barriers shall be installed when new trees are planted to prevent uncontrollable spread of tree roots that may cause damage to hardscape/ infrastructure (sidewalks, driveways, storm sewers, streets). Root barriers may be either linear or surround in form, depending on the hardscape/infrastructure to be protected, and must be installed at a minimum depth of 30 inches.
- (c) *Minimum street tree planting clearances.*

Feature	Small Tree (up to 35' height)	Medium Tree (up to 60' height)	Large Tree (over 60' height)
Sidewalks	2 feet	3 feet	4 feet
Driveways	5 feet	5 feet	10 feet
Fire Hydrants	5 feet	5 feet	5 feet
Intersections	35 feet	35 feet	35 feet
Water Meters	5 feet	5 feet	5 feet
Utility Boxes	5 feet	5 feet	5 feet
Utility Poles	5 feet	10 feet	10 feet
Street Lights	10 feet	20 feet	30 feet

Stop Signs	35 feet	35 feet	35 feet
Regulatory Signs	Cannot block sign		

- (d) *Minimum distance from buried utility lines.* If buried utility lines traverse the planting strip, the following minimum distances apply:
 - 8"—10" water and sewer line 10 feet.
 - 12"—16" water and sewer line 15 feet.
 - 18" + water and sewer line 20 feet.
 - All other services 10 feet.
- (e) *Linear spacing.* Trees shall be placed an average of every 30 feet. Depending on the size, species, and variety, the city arborist may approve planting distances which may be as close as ten feet and as far as 40 feet to 50 feet based on the size and growth habit of the tree.
- (f) *Medians.* No tree shall be planted in any median that is less than ten feet in width.
- (g) *Overhead utility lines.* No tree with the potential of reaching a mature height of more than 15 feet shall be planted in the right-of-way under overhead wires.
- (h) *Street tree list.* The street tree list includes suggested species for street trees. The city arborist may approve trees that do not appear on this list.

Small Trees	
Common Name	Botanical Name
American Holly	Ilex opaca
Bottlebrush	Callistemon sp.
Eagleston Holly	Ilex x attenuate 'Eagleston'
Possumhaw Holly	Ilex decidua
Texas Redbud	Cercis canadensis 'Texensis'
Vitex	Vitex agnus-castus
Yaupon Holly	Ilex vomitoria

Medium Trees	
Common Name	Botanical Name
Cathedral Oak	Quercus virginiana 'Cathedral'
Chinese Elm	Ulmus parvifolia
Chinese Pistache	Pistacia chinenses
Crape Myrtle	Lagerstroemia indica
Eve's Necklace	Sophora affinis
Highrise Oak	Quercus virginiana 'Highrise'
Little Gem Magnolia	Magnolia grandiflora 'Little Gem'
River Birch	Betula nigra
Sweetbay Magnolia	Magnolia virginiana
Teddy Bear Magnolia	Magnolia grandiflora 'Southern Charm'

Large Trees	
Common Name	Botanical Name
Bald Cypress	Taxodium distichum
Black Walnut	Juglans nigra

Bur Oak	Quercus macrocarpa
Cedar Elm	Ulmus crassifolia
Crabapple	Malus sp.
Live Oak	Quercus virginiana
Loblolly Pine	Pinus taeda
Mexican Plum	Prunus mexicana
Montezuma Bald Cypress	Taxodium mucronatum
Mulberry	Morus sp.
Pecan	Carya illinoensis
Shumard Oak	Quercus shumardii
Slash Pine	Pinus elliotii
Southern Magnolia	Magnolia sp.
Sweetgum	Liquidambar styraciflua
Texas Palmetto	Sabal texana
Texas Persimmon	Diospyros texana
Texas Red Oak	Quercus texana
Water Oak	Quercus nigra

(Ord. No. 2018-28, § 1, 9-25-2018)

Sec. 102-111. - City-maintained trees.

- (a) *Public tree care.* The city currently maintains live oak trees in the right-of way on Main Street. The locations are as follows: 22 live oaks on the south side of Main Street between Michigan and Kansas, extending down Kansas to the southern-most boundary/fence line of Helen's Garden; four live oaks on the south side of Main Street between Kansas and Iowa and two live oaks on the north side of Main Street between Kansas and Iowa. See the attached map.



- (b) The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares, rights-of-way and on property owned by the city, as necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public property. The city reserves the right to allow the city arborist to authorize the pruning or removal of a street tree or park tree when immediate pruning or removal is necessary to protect against an imminent threat of substantial injury to persons or damage of property.
- (c) *Non-liability of city.* Nothing in this chapter shall be deemed to impose any liability for damages or a duty of care and maintenance upon the city or upon any of its officers or employees.

Protected Tree List	
Large Trees	
Common Name	Botanical Name
American Sycamore	Plantanus occidentalis
Bald Cypress	Taxodium distichum
Bur Oak	Quercus macrocarpa
Chinquapin Oak	Quercus muehlenbergii
Live Oak	Quercus virginiana

Loblolly Pine	Pinus taeda
Longleaf Pine	Pinus palustris
Mexican Sycamore	Plantanus mexicana
Nutall Oak	Quercus nutallii
Overcup Oak	Quercus lyrata
Pecan	Carya illinoenses
Post Oak	Quercus stellata
Red Bay	Persea borbonia
Red Maple	Acer rubrum
River Birch	Betula nigra
Sawtooth Oak	Quercus acutissima
Shumard Oak	Quercus shumardii
Southern Magnolia	Magnolia grandiflora
Southern Red Oak	Quercus falcate
Swamp Chestnut Oak	Quercus michauxii
Sweet Bay Magnolia	Magnolia virginiana
Trident Red Maple	Acer Rubrum 'tridens'
Water Oak	Quercus nigra
White Oak	Quercus alba

Protected Tree List	
Small Trees	
Common Name	Botanical Name
Chinese Pistache	<i>Pistacia chinensis</i>
Eastern Redbud	<i>Cercis canadensis</i>
Little Gem Magnolia	<i>Magnolia grandiflora</i> 'little gem'
Mexican Buckeye	<i>Ungnadia speciosa</i>
Mexican Redbud	<i>Cercis canadensis</i> 'mexicana'
Mexican Plum	<i>Prunus mexicana</i>
Texas Mountain Laurel	<i>Sophora secundiflora</i>
Texas Pistache	<i>Pistacia texana</i>
Texas Persimmon	<i>Diospyros texana</i>
Texas Redbud	<i>Cercis canadensis</i> 'texensis'

Invasive Tree List	
Common Name	Botanical Name
Chinaberry	<i>Melia azedarach</i>
Chinese Parasoltree	<i>Firmiana simplex</i>

Chinese Tallow	Triadica sebifera
Glossy Privet	Ligustrum lucidum
Golden Rain Tree	Koelreuteria paniculata
Lead Tree	Leucaena leucocephala
Mimosa/Silk Tree	Albizia julibrissin
Princess Tree	Paulownia tonentosa
Russian Olive	Elaeagnus angustifolia
Saltcedar	Tamarix spp.
Tree of Heaven	Ailanthus altissima

(Ord. No. 2018-28, § 1, 9-25-2018)

SECTION 17B. - TREE PRESERVATION

(17B-100) *Purpose.* This section is designed to establish rules and regulations governing the protection and preservation of larger native or established trees which provide a valuable amenity to the urban environment and to encourage the protection of healthy trees and provide for the replacement and/or replanting of trees that are necessarily removed during construction, development or redevelopment. In addition, to provide for open space and more efficient drainage of land; thereby, reducing the effects of soil erosion and the need for additional drainage facilities.

(17B-200) *Applicability.*

A. No person shall remove or cause the removal of any tree that is not on the prohibited tree list, from any developed or undeveloped property, with the exception of existing single family, townhome or duplex structures, within the city without first submitting an application, paying an administrative fee and upon approval of the application securing a tree removal permit from the planning department, except as follows:

1. The protected tree is located within the street right-of-way, or utility easement required as part of an approved final plat or capital improvement project.
2. The protected tree has sustained damage in the form of a broken trunk, broken limbs, or uprooting, which creates an immediate hazard to life or property, and the removal is begun before the beginning of the fifth business day following the occurrence of the damage. If the city suffers widespread storm damage, the planning department may extend the time period allowed for removal.
3. The protected tree is to be removed in order to make improvements to property in accordance with an application for a building permit properly submitted prior to the effective date of this article and the improvements are to be made in accordance with the issued permit.
4. The protected tree is to be removed for recreational property or uses, such as golf courses, ballfields, etc., the buildable area of the property shall include that portion of the property necessary for the construction of such recreational improvements, including minimal adjacent area to allow the normal operation of construction equipment.
5. The mowing, clearing and grubbing of brush located within or under the drip lines of protected trees, provided such mowing, clearing or grubbing is accomplished by hand or by mowers. The use of dozers, loaders or other construction or earth moving equipment for this purpose shall not be allowed.
6. The terms and provision of this section shall not apply to any development, subdivision or resubdivision for which a recorded plat has been approved by the city council prior to June 16, 1997.
7. Utility companies franchised by the city which remove protected trees that endanger public safety and welfare by interfering with utility service, except that where such trees are on owner occupied properties developed for single family, townhome or duplex uses, disposal of such trees shall be at the option of the property owner(s).

(17B-300) *Tree removal permit requirements and procedures.*

A. Any person required to obtain a tree removal permit shall submit a completed application, at the time of site plan submittal, a fifty-dollar (\$50.00) administrative fee and a written document indicating the reason(s) for removal of the protected tree(s) to the planning department. The applicant shall also submit a twenty-four-inch by thirty-six-inch site plan to the planning department, containing the following information (this information does not have to be duplicated if already submitted on a required landscape site plan):

1. Location of all existing or proposed property lines with acreage listed, building lines, and yard requirements.
 2. The location, caliper, approximate crown size and common name of all single trunk trees with a ten-inch or larger caliper trunk or multi-trunk trees having a total caliper of ten (10) inches or larger.
 3. The denotation of the protected tree to be removed.
 4. Existing and proposed grades and major contours.
 5. The location and dimensions of all existing and or proposed public streets or alley right-of-way, utility easement, pedestrian access easement or other public right-of-ways or easements.
 6. Other information as may be required by the planning department.
- B. No application fee shall be charged for the removal of protected trees located on real property having an agricultural zoning district classification. Provided, however, if within any twelve-month period, tree removal permits for the removal of twenty (20) or more protected trees are issued for the same agricultural property or tract, or any portion thereof, the agricultural zoning district classification of said property cannot be changed, nor can an application for a zoning amendment relative to said property be made, during the twelve-month period following the aforementioned twelve-month period during which the twenty (20) or more trees were removed.
- C. Issuance of tree removal permits. A permit authorizing removal may include one or more protected trees on any one property. The application for removal of a protected tree shall only be approved and a tree removal permit issued in accordance with the following:
1. *Tree conditions.* For the removal of a protected tree which is dying or so severely diseased or damaged that its restoration to sound condition is not practical; its disease can be expected to be transmitted to other trees and endanger their health; it is a hazard to life or property which cannot be reasonably mitigated without removal; or removal is necessary to insure the survival of other protected trees.
 2. *Construction, repairs, or improvements on property.* Where the application for removal of a protected tree is requested in order to undertake any construction, repairs, or make any improvements to any property, the planning department shall consider the application for removal if it determines, after review of the plans for the proposed repairs, construction, or improvements, that reasonable efforts have been made to avoid removal of the protected tree. In making its determination of whether reasonable efforts have been made, the planning department shall consider the following:
 - a. The feasibility of using alternate repair or construction methods or techniques;
 - b. The feasibility of rerouting or relocation of sewer, water, electric, gas lines or equipment, drainage facilities, sidewalks, driveways, or other utilities, equipment, or improvements required or needed to serve any building or use located or to be located on the property or other property; and
 - c. The additional cost that would be incurred as a consequence of insuring preservation of the protected tree.
- (17B-400) *Tree protection measures.*
- A. The following protection measures shall be required for protected trees:
1. Prior to construction or land development, the developer shall clearly mark with a three-inch wide red ribbon or tape all protected trees within thirty (30) feet of a public right-of-way, public easement or buildable lot area, as included on the approved and filed record plat.

2. Prior to construction of land development, the developer shall establish designated parking areas for the parking and maintenance of all vehicles, trailers, construction equipment and related items and designated stockpile areas for the storage of construction supplies and materials during construction.
3. During construction, the developer shall prohibit the cleaning of equipment or materials and/or the disposal of any waste material, including, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc., under the canopy or drip line of any protected tree or group of protected trees.
4. If a foundation, street or alley pavement, utility line, on-site sewerage facility, pool, tennis court, patio, sidewalk, drive or parking lots must be constructed within the drip line of a protected tree, it shall be constructed no closer than five (5) feet from the drip line of the trunk of such protected tree, as approved by the planning department.

(17B-500) *Replacement requirements and penalties.*

- A. Protected trees which are removed shall be replaced by a minimum of two (2), three-inch caliper trees for each tree removed. The replacement of removed trees shall not count toward the number of trees to be planted as required in other portions of this article.
- B. If any protected trees are removed from properties; except existing single family, townhome or duplex structures, prior to issuance of a tree removal permit from the planning department, the city shall have the authority to enact one or more of the following administrative and civil penalties on the developer of the property from which such protected trees are removed:
 1. Replacement by a minimum of four (4), three-inch caliper tree(s) for each tree removed. The replacement of removed trees shall not count toward the number of trees to be planted as required in other portions of this subsection.
 2. A monetary penalty of one hundred dollars (\$100.00) per caliper inch of the removed or injured protected tree(s) resulting from the builder's failure to follow required tree protection measures that causes or may reasonably be expected to cause the tree to die shall be assessed and made payable to the city. Funds paid to The Colony as tree removal penalties shall be deposited in a special account or fund and used by The Colony to provide and or supplement landscape plantings in public areas in The Colony.

(Ord. No. 97-983, § 2, 6-16-1997)

CHAPTER 7 - TREE PRESERVATION^[2]

Footnotes:

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Editor's note— Ord. No. 03-21, §§ 1.0—6.0, were not specifically amendatory of the Code and have been included as chapter 7 to read as herein set out.

Sec. 9-7-1. - Purpose and intent.

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 residences and business enterprises to the City.
- (4) Protect healthy quality trees and promote the natural ecological environmental and aesthetic qualities of the City.

(Ord. No. 03-21, § 1.0, 7-31-03)

Sec. 9-7-2. - Definitions.

- (a) *General rules.* The following rules shall be applied in constructing, interpreting or otherwise defining the terms hereof:
 - (1) Words used in the present tense shall include the future, words used in the singular number shall include the plural number and words used in the plural shall include the singular.
 - (2) The word "shall" is mandatory and the word "may" is permissive.
 - (3) The word "person" shall include any individual, firm, corporation, partnership, joint venture, organization, or any other entity.
- (b) *Definitions.* Certain words or terms applicable to this chapter are defined as hereinafter provided. Words and terms used in this chapter, but not defined in this chapter shall have the meanings contained in the zoning ordinance, landscape ordinance or other ordinances of the City. Words and terms defined in two ordinances shall be read in harmony unless there exists an irreconcilable conflict, in which case the definition contained in this chapter shall control.

Alter; alters; alteration: The uprooting, severing the main trunk of the tree, or any act which causes or may reasonably be expected to cause a tree to die. It includes, but is not limited to: damage inflicted up the tree's root system by machinery, storage of materials, or the compaction of soil above the root system of a tree; a change in the natural grade above the root system of a tree; an application of herbicidal or other lethal chemicals; excessive pruning; placement of non-permeable pavement over the root system of a tree; and trenching within the critical root zone. A protected tree shall be considered to be altered if less than 75 percent of the critical root zone is maintained at undisturbed natural grade, or more than 25 percent of the canopy is removed, or the tree is disfigured to the extent a reasonable person would conclude the tree will not survive.

Building pad: The actual foundation area of a building and a reasonable area not to exceed six feet around the foundation necessary for construction and grade transitions.

Clear-cutting: The removal of all of the trees or a significant majority of the trees within an area of land.

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.

Cut/fill: Areas where the natural ground level has been excavated (cut) or fill has been brought in.

Drip line: Whichever is greater of: (1) a vertical line run through the outermost portion of the canopy of a tree and extending to the ground, or (2) if the tree is damaged or deformed as a result of tree growth or other cause, a circular area with a radius of one-half the height of the tree extending outward from the center point of the tree.

Landscape administrator: The director of planning and development or designee.

Landscape architect: A person licensed to use the title of "landscape architect" in the State of Texas in accordance with the state law.

Municipal/public domain property: Property in which title is held in the name of government entity.

Owner: Any person with an interest in land, or a lessee, agent, employee, or other person acting on behalf of the owner.

Protective fencing: Snow fencing, chain link fence, orange vinyl construction fencing or other similar fencing at least four feet high and supported at a maximum of ten-foot intervals by approved methods sufficient enough to keep the fence upright and in place. The fencing shall be of a highly visible material.

Public utility: A business that offers a public utility service, such as gas, electricity, cable or telecommunications service and that installs facilities within public right-of-way or easements.

Tree: Any self-supporting wood perennial plant which will attain a trunk diameter of two inches or more when measured at a point four and one-half feet above ground level and normally an overall height of at least 15 feet at maturity, usually with one main stem or trunk and many branches. It may appear to have several stems or trunks as in several varieties of oaks.

Tree board: A board appointed by the City Council to carry out the duties and responsibilities set forth in this chapter. The planning and zoning board shall constitute the tree board unless the City Council appoints a separate tree board.

Tree, marginal: A tree which the City has determined may or may not be worthy of preservation depending on the individual characteristics of the tree.

Tree, park: Tree, shrubs, and all other woody vegetation in public parks and all areas owned by the City to which the public has free access as a park.

Tree, protected: (1) A quality tree that has a trunk with a diameter of six inches or greater at four and one-half feet above the ground, or (2) a marginal tree that has a trunk with a diameter of six inches or greater at four and one-half feet above the ground and that the landscape administrator has determined should be saved due to individual characteristics of the area. The diameter of a multi-trunk tree shall be determined by adding the total diameter of the largest trunk to one-half the diameter of each additional trunk.

Tree quality: A tree which the City has determined typically has significant positive characteristics worthy of preservation.

Tree, street: Trees, shrubs, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the City.

Tree survey: A plan drawing that provides legend details about the location and details of trees. It shall include drawings by a licensed surveyor, a licensed architect, or, if few trees are involved, a person approved by the landscape administrator.

Tree topping: The severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

Utility company: A company or entity, or agent for a company or entity, that provides a utility service such as the provision of gas, electric, cable, or telephone service within the City.

(Ord. No. 03-21, § 2.0, 7-31-03)

Sec. 9-7-3. - Tree permit.

- (a) *Generally:* Except as otherwise provided in subsection (c), below, a person must obtain a tree permit from the landscape administrator before altering any tree, park tree, or street tree in the City.
- (b) *Offense:* A person commits an offense if the person alters a protected tree that does not meet an exception listed in subsection (c), below, without first obtaining a tree permit from the City that authorizes alteration of that tree. A person commits an offense if the person alters a tree in violation of the permit.
- (c) *Exceptions:* It is an affirmative defense to prosecution for a violation of subsection 9-7-3(b) if the person altered a tree for one of the reasons listed below. No tree permit is required if:
 - (1) The tree endangers the public health, welfare or safety and immediate alteration is required.
 - (2) The tree has disrupted a public utility service due to a tornado, storm, flood or similar act. Alteration shall be limited to the portion of the tree reasonably necessary to reestablish and maintain reliable utility service.
 - (3) The tree is located on the property of a licensed plant or tree nursery which has trees planted and growing on the premises for the sale or intended sale to the general public in the ordinary course of the nursery's business.
 - (4) The tree is located on property zoned single family residential on which there is a residence used as a homestead. However, builders, contractors and owners are subject to the requirements of this chapter for all new construction prior to moving into and living on the homestead.
 - (5) The tree is located on property which is zoned "A" (agriculture) and being actively used for agricultural purposes, as long as the tree is located within a total area of one acre surrounding the owner's residence is used as a homestead.
 - (6) The tree must be altered to allow construction of improvements in accordance with an active building permit.

(Ord. No. 03-21, § 3.0, 7-31-03)

Sec. 9-7-4. - Permit review and approval process.

- (a) *Authority for review:* The landscape administrator shall be responsible for reviewing all requests for tree permits submitted in accordance with the requirements specified herein.
- (b) *Deferral or appeal to planning and zoning board:* The landscape administrator may defer the approval of a tree permit to the planning and zoning board for any reason. A person aggrieved by a decision of the Landscape administrator may appeal the decision to the planning and zoning board. The decision of the planning and zoning board shall be final.

- (c) *Submittal requirements:* The landscape administrator shall establish administrative procedures necessary to facilitate the implementation and enforcement of this chapter.
 - (1) Fees: A person shall submit, with the person's application for a tree permit, payment of a fee to the City of Weatherford in the amount specified by City Council in a fee schedule, unless section 9-7-9 (exceptions to permit fee requirement) of this chapter is applicable.
 - (2) Required documents: An applicant for a tree permit shall submit a map exhibit, or survey as required.
 - a. *Alternative to tree survey:* For property containing large, heavily wooded areas, the landscape administrator may, in lieu of a tree survey, authorize the submittal of an aerial photograph accompanied by a transparent plan of the development at the same scale as the photograph showing all areas that are exempt from the tree replacement and/or tree protection requirements, provided that a tree survey is submitted to the landscape administrator prior to any grading or construction. The landscape administrator may approve the submission of photographs in phases for a multi-phased project.
 - b. *Non-disturbance areas:* If the applicant designates a nearly wooded area as non-disturbance zone in which no construction will occur, the landscape administrator may approve a non-disturbance zone and trees within the zone are not required to be individually identified on the survey.
 - (3) Permit expiration: A tree permit issued in connection with a building permit shall be valid for the period of that building permit's validity. A tree permit not issued in connection with a building permit plan shall become void 180 days after the issue date on the tree permit.
- (d) *Posting tree protection sign:* After the tree permit is issued, the permit holder shall post a "tree protection sign" at each entrance to the property upon which one or more trees is situated, and at any other location designated by the landscape administrator.
- (e) *Action on permit application:* The landscape administrator or the planning and zoning board shall grant a tree permit based on the following criteria:
 - (1) Whether or not a reasonable accommodation or alternative solution can be made to accomplish the desired activity without the alteration of the tree;
 - (2) The cost of preserving the tree;
 - (3) The increased development costs caused by preserving the tree;
 - (4) Whether the tree is worthy of preservation;
 - (5) The effect of the alteration on erosion, soil moisture, retention, flow of surface waters, and drainage systems;
 - (6) The need for buffering residential areas from the noise, glare, and visual effects of nonresidential uses;
 - (7) Whether the tree interferes with a utility service;
 - (8) Whether the proposed tree replacement procedures pursuant to section 9-7-7 of this chapter adequately mitigate the alteration of the tree; and
 - (9) Whether the alteration adversely affects the public health, safety or welfare.

(Ord. No. 03-21, § 4.0, 7-31-03)

Sec. 9-7-5. - Ongoing review of development by landscape administrator.

- (a) *Evaluations:* The landscape administrator shall evaluate any plans required by this chapter to determine whether the developer has made a good-faith effort to preserve as many protected trees as possible. The landscape administrator shall prepare an analysis and forward it to the planning and

zoning board and the City Council for their consideration regarding denial or approval of any concept plan or site plan that is necessary for development. The planning and zoning board and the City Council shall take into consideration the criteria for tree preservation listed in subsection 9-7-4(e) of this chapter in determining whether to deny or approve any concept plan or site plan.

- (b) *Non-substantive changes:* The landscape administrator shall be authorized to work with owners, developers, and builders to make non-substantive changes, within the scope of this chapter, to plans, permits and other requirements throughout the development and construction processes that will provide the greatest reasonable protection toward achieving the purposes of this chapter.

(Ord. No. 03-21, § 5.0, 7-31-03)

Sec. 9-7-6. - Tree replacement and tree protection requirements.

- (a) *Generally:* If a tree permit is required for the alteration of a protected tree pursuant to this chapter, the tree replacement procedures set forth in section 9-7-7 of this chapter and the tree protection procedures set forth in section 9-7-8 of this chapter must be followed as prescribed in this section.
- (b) *Public utility projects:* For any project conducted by a public utility (except in a capacity covered by section 9-7-3(c)(2) herein), all protected trees that the landscape administrator determines must be altered in order to install utility lines within public right-of-way or utility easements shall be exempt from the tree replacement and tree protection requirements listed in sections 9-7-7 and 9-7-8 of this chapter. Any protected trees within public right-of-way or utility easements that the landscape administrator determines do not have to be altered shall be subject to the tree protection requirements listed in section 9-7-8 of this chapter, but not to the tree replacement requirements listed in section 9-7-7 of this chapter. The public utility's application for a tree permit must be accompanied by a site plan or construction plan.
- (c) *Selective thinning and removal of underbrush:*
 - (1) The landscape administrator may issue a single tree permit allowing the alteration of certain protected trees from a densely forested area when the landscape administrator determines that the selective thinning is being done in a professionally accepted manner that will enhance the environment and the likelihood of survival for the remaining trees. If the landscape administrator issues a permit for selective thinning, the protected trees covered by the permit shall be exempt from the tree replacement and tree protection requirements of sections 9-7-7 and 9-7-8 of this chapter.
 - (2) The landscape administrator may issue a permit allowing the clearing and grubbing of brush located within or under the drip lines of protected trees subject to reasonable conditions to insure the maximum protection for the trees. The permit holder shall clear or grub by hand or with mowers. The use of dozers, loaders, or other moving equipment to clear or grub is prohibited.
- (d) *Clear-cutting:* The landscape administrator may issue a single tree permit allowing the clear-cutting of protected trees from property zoned "A" (agriculture) after the landscape administrator makes an on-site inspection of the property to be cleared and receives a written statement from the applicant describing the purpose and reason for the clear-cutting, but only if the landscape administrator determines that the clear-cutting is for a legitimate, agricultural reason. If the landscape administrator issues such a permit, the protected trees covered by the permit shall be exempt from the tree replacement and tree protection requirements of sections 9-7-7 and 9-7-8 of this chapter. If the land ceases to be used for agricultural purposes at any time within three years after the permit is obtained to remove the trees, the owner of the land must comply with the tree replacement requirements contained in section 9-7-7 of this chapter. This requirement runs with the land.
- (e) *Diseased, damaged, or dangerous trees:* The landscape administrator may issue a tree permit for any tree that is diseased, infected or damaged beyond the point of recovery, or in danger of falling (except as described by subsection 9-7-3(c)(1) herein) as determined by the landscape administrator

prior to the alteration of the tree. A diseased tree may be altered by the City or an individual to reduce the chance of spreading the disease to adjacent healthy trees. If the landscape administrator issues such a permit, the protected trees covered by the permit shall be exempt from the tree replacement and tree protection requirements of sections 9-7-7 and 9-7-8 of this chapter.

- (f) *Agricultural:* The landscape administrator may issue a tree permit for the alteration of up to seven protected trees per calendar year on property zoned "A" (agriculture) and being actively used for agricultural purposes. If the landscape administrator issues such a permit, the protected trees covered by the permit shall be exempt from the tree replacement and tree protection requirements of sections 9-7-7 and 9-7-8 of this chapter. (However, protected trees altered in excess of seven per calendar year are not exempt under this section and will require tree permits and must comply with tree replacement and tree protection requirements.)
- (g) *New developments:*
 - (1) *Residential subdivision:* In a residential subdivision, all protected trees that the landscape administrator determines must be altered in order to install utility lines within public rights-of-way or utility easements or drainage easements as shown on approved final plat, or to achieve the cut/fill drainage as designated on the master drainage construction plan, shall be exempt from the tree replacement and tree protection requirements listed in sections 9-7-7 and 9-7-8 of this chapter. Any protected trees within these areas that the landscape administrator determines do not have to be altered shall be subject to the tree protection requirements listed in section 9-7-8 of this chapter, but not to the tree replacement requirements listed in section 9-7-7 of this chapter. All other areas of the subdivision shall be subject to both the tree replacement and the tree protection requirements, and all other provisions of this chapter.
 - (2) *Single lot residential development:* In a single lot residential development, all areas within the building pad site, driveways, public sidewalks, patios, septic tank and lateral lines, parking area, and pool and associated deck area shall be exempt from the tree replacement and tree protection requirements of sections 9-7-7 and 9-7-8 of this chapter. All other areas of the lot shall be subject to both the tree replacement and the tree protection requirements, and all other provisions of this chapter.
 - (3) *Non-residential development:* In a non-residential development, all protected trees that the landscape administrator determines must be altered in order to install utility lines within public right-of-way or public utility or drainage easements as shown on an approved final plat, or to install fire lanes, required parking areas and building pad sites as shown on an approved site plan, shall be exempt from the tree protection and tree replacement requirements listed in sections 9-7-7 and 9-7-8 of this chapter. Any protected trees within these areas that the landscape administrator determines do not have to be altered shall be subject to the tree protection requirements listed in section 9-7-8 of this chapter, but not to the tree replacement requirements listed in section 9-7-7 of this chapter. All other areas of the development shall be subject to both the tree replacement and the tree protection requirements, and all other provisions of this chapter.
 - a. *Mitigation for parking:* If a person provides parking spaces in addition to the required number of parking spaces, the person shall be required to replace trees which are required to be altered due to the parking or to make payment to the City reforestation fund, or a combination thereof, as directed by the landscape administrator.

The following formula shall be used to calculate the number of trees to be replaced or the payment due: The landscape administrator shall identify the total number of parking spaces above the number required by the zoning ordinance and calculate the number of trees to be replaced or mitigated based on an equivalent number of spaces in the lot containing the greatest number of trees.

- (h) *Pruning:* The landscape administrator may issue a tree permit to allow pruning of a protected tree that alters the tree if such pruning is necessary to allow construction or demolition of a structure. If the landscape administrator issues such a permit, the protected tree covered by the permit shall be

exempt from the tree replacement and tree protection requirements of sections 9-7-7 and 9-7-8 of this chapter. For all other pruning for which a tree permit is required, sections 9-7-7 and 9-7-8 shall apply.

(Ord. No. 03-21, § 6.0, 7-31-03)

Sec. 9-7-7. - Tree replacement procedures.

- (a) *Generally:* If required by section 9-7-6, above, the following procedures shall apply to any person who alters a protected tree for which a permit is required.
- (b) *Tree replacement:* If a person alters a protected tree for which a permit is required, the person shall replace the protected tree with a quality tree as designated in the landscape ordinance and approved by the landscape administrator. This tree replacement requirement is not meant to supplant good site planning. Tree replacement will be considered only after all design alternatives which could save more existing trees have been evaluated and reasonably rejected.
 - (1) *Size and number:* A sufficient number of trees shall be planted to equal or exceed, in caliper, the diameter of each tree altered, measured at four and one-half feet above ground level. Each replacement tree shall be a minimum of three inch caliper at one foot above ground level, and seven feet in height when planted.
 - (2) *Location:* Each replacement tree should be planted on the same property as the tree which was altered. However, if the replacement tree cannot be planted on the same property in accordance with universally accepted arborists' standards, the landscape administrator may:
 - a. Require replacement on private property.
 - b. Require replacement on public property, or
 - c. Require payment to the reforestation fund in accordance with subsection 9-7-7(c), below.
 - (3) *Responsibility for replacing trees:* The landscape administrator will determine the agent responsible for replacing the trees, the time of replacement, and the location of the replacement trees. The requirement to replace trees shall run with the land.
 - (4) *Delayed replacement:* If the landscape administrator approves the planting of replacement trees more than 30 days after the alteration of protected trees, the applicant shall provide the landscape administrator with an affidavit that all replacement trees will be planted within six months. The landscape administrator may require the person to furnish the City a cash deposit or surety bond in the approximate amount of the cost to replace the trees.
 - (5) *Duration:* A replacement tree that dies within three years of the date it was planted must be replaced by another replacement tree. This requirement runs with the land.
- (c) *Reforestation fund:* If required by the landscape administrator, the applicant, instead of compliance with section 9-7-7(b), above, shall make a payment into the reforestation fund or other specifically dedicated fund. The funds shall be used only for purchasing and planting trees on private property approved by the landscape administrator, on public property, for acquiring wooded property which shall remain in a naturalistic state in perpetuity, or for establishing a landscape or wildlife preserve or similar nature area.
 - (1) The amount of the payment required for each replacement tree shall be calculated based on a schedule published and reviewed annually by the landscape administrator which sets forth the average cost of a quality tree added to the average cost of planting a tree.
 - (2) The landscape administrator shall submit quarterly reports to the City Council of the deposits and disbursements from the reforestation fund.
- (d) *Offense:* A person commits an offense if the person fails to replace a tree or make a payment in accordance with the landscape administrator's direction pursuant to this section 9-7-7.

(Ord. No. 03-21, § 7.0, 7-31-03)

Sec. 9-7-8. - Tree protection procedures.

- (a) *Generally*: If required by section 9-7-6, above, the following procedures shall apply to protect any protected tree for which a permit is required.
- (b) *Construction plan requirements*: All construction plans shall be specific and identify protected trees and protection procedures.
- (c) *Prohibited activities in critical root zone*: The following activities are prohibited within the limits of the critical root zone of any protected tree subject to the requirements of this chapter.
 - (1) *Material storage*: No materials intended for use in construction or waste materials accumulated due to excavation or demolition shall be placed within the limits of the critical root zone of any protected tree.
 - (2) *Equipment cleaning/liquid disposal*: No equipment shall be cleaned or other liquids deposited or allowed to flow overland within the limits of the critical root zone of a protected tree. This includes, without limitation, paint, oil, solvents, asphalt, concrete, mortar or similar materials.
 - (3) *Tree attachments*: No signs, wires or other attachments, other than those of a protected tree. Fencing attached to a tree via "U" nails or bent nails is allowed only if the fencing is parallel to and contiguous with the tree.
 - (4) *Vehicular traffic*: No vehicular and/or construction equipment traffic or parking shall take place within the limits of the critical root zone of any protected tree other than on existing street pavement. This restriction does not apply to single incident access within the critical root zone for purposes of clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance, emergency restoration of utility service, or routine mowing operations.
 - (5) *Grade changes*: No grade changes shall be allowed within the limits of the critical root zone of any protected tree unless adequate construction methods are approved by the landscape administrator.
 - (6) *Impervious paving*: No paving with asphalt, concrete or other impervious materials that may reasonably be expected to kill a tree shall be placed within the limits of the critical root zone of a protected tree except as otherwise allowed in this chapter.
- (d) *Prohibited activities in drip-line*: No heavy equipment, including but not limited to trucks, tractors, trailers, bulldozers, bobcat tractors, trenchers, compressors, and hoists, shall be allowed inside the drip-line of any protected tree on any construction site without the specific approval of the landscape administrator.
- (e) *Procedures required prior to construction*: The following procedures shall be followed on all types of construction projects (including without limitation residential, commercial, and municipal/public domain projects).
 - (1) *Protective fencing*: Prior to construction, the contractor or subcontractor shall construct and maintain, for each protected tree on a construction site, a protective fencing which encircles the outer limits of the critical root zone of the tree to protect it from construction activity. 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.
 - (2) *Bark protection*: In situations where a protected tree remains in the immediate area of intended construction and the landscape administrator determines the tree bark to be in danger of damage by construction equipment or other activity, the contractor or subcontractor shall protect the tree 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 is to protect the bark of the tree against incidental contact by large construction equipment.

(f) *Construction methods:*

- (1) *Boring:* Boring of utilities under protected trees shall be required in those circumstances where it is not possible to trench around the critical root zone of the protected tree. When required, the length of the bore shall be the width of the critical root zone at a minimum and shall be a minimum depth of 48 inches.
- (2) *Grade change:* In situations in which the landscape administrator approves the grade change within the critical root zone of a protected tree, the procedures noted in the City's standard detail sheet shall be followed.
- (3) *Trenching:* All trenching shall be designed to avoid trenching across the critical root zone of any protected tree, unless otherwise approved by the landscape administrator. Trenching within the critical root zone requires a tree permit. The placement of underground utility lines such as electric, phone, gas, etc., is encouraged to be located outside of the critical root zone of protected trees. Trenching for an irrigation system shall be placed outside of the critical root zone, except the minimum required single head supply line as allowed to extend into the critical root zone perpendicular to the tree trunk and in the manner that has the least possible encroachment into the critical root zone.
- (4) *Root pruning:* All roots two inches or larger in diameter which are exposed as a result of trenching or other excavation shall be cut off square with a sharp medium tooth saw and covered with pruning compound within two hours of initial exposure.

((g) *Offense:* A person commits an offense if the person violates or fails to comply with this section 9-7-8.

(Ord. No. 03-21, § 8.0, 7-31-03)

Sec. 9-7-9. - Exceptions to permit fee requirement.

- (a) *City:* When altering any protected tree, the City is exempt from the tree permit fee, but must obtain a permit and comply with all tree replacement and tree protection procedures as listed in sections 9-7-7 and 9-7-8. Protected trees proposed to be altered must be shown on construction plans approved by the landscape administrator.
- (b) *Diseased, damaged, or dangerous tree:* A person is exempt from the tree permit fee if altering a diseased, damaged, or dangerous tree pursuant to section 9-7-6(e), above.
- (c) *Public utilities:* When altering any protected tree, a public utility is exempt from the tree permit fee, but must obtain a permit and comply with all tree replacement and tree protection procedures as listed in sections 9-7-7 and 9-7-8. Protected trees proposed to be altered must be shown on construction plans approved by the landscape administrator.

(Ord. No. 03-21, § 9.0, 7-31-03)

Sec. 9-7-10. - Comprehensive tree plan.

It shall be the responsibility of the planning and zoning board in conjunction with the Keep Weatherford Beautiful Board to study, investigate, counsel and develop and/or update periodically, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs on all municipal/public domain property. The board shall present the plan to the council and, when adopted by the council, the plan shall represent the comprehensive tree plan for the City.

(Ord. No. 03-21, § 10.0, 7-31-03)

Sec. 9-7-11. - Street and park trees.

- (a) *Acceptable trees:* The landscape administrator shall maintain a list of trees acceptable for planting on municipal/public domain property. Trees other than those listed as acceptable may only be planted upon written approval of the landscape administrator.
- (b) *Street tree spacing:* The spacing of street trees will be in accordance with recommendations of the landscape administrator.
- (c) *Stump removals:* All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.
- (d) *Permit required:* A person, other than an agent of the City, must obtain a tree permit before the person may prune, treat, remove, damage, or destroy a street or park tree (regardless of whether it is a protected tree and regardless of whether it is significant enough to "alter" the tree) within the City. A person commits an offense if the person violates this subsection 9-7-11(d).

(Ord. No. 03-21, § 11.0, 7-31-03)

Sec. 9-7-12. - Tree pruning.

- (a) *Offense:* A person commits an offense if the person alters or significantly disfigures a protected tree by pruning.
- (b) *Permit requirements for public utilities:* Unless pruning is requested by the owner of the tree or excepted from this chapter pursuant to subsection 9-7-3(c)(2) herein, the public utility shall obtain a tree permit before beginning any pruning (regardless of whether the pruning will alter or significantly disfigure the tree).
- (c) *Pruning technique:* When allowed, all pruning shall be conducted in accordance with universally accepted arborists' standards.
- (d) *Required pruning:* The owners of all trees adjacent to public right-of-way shall maintain a minimum clearance of 13 feet above the traveled pavement or curb of a public street. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. (Cross-reference: Section 9-7-3(c) of this chapter regarding exceptions.)
- (e) *Tree topping:* It shall be unlawful for any person to top any tree without having a tree permit approved by the landscape administrator, unless an exception listed in subsection 9-7-3(c) of this chapter applies. However, if the landscape administrator determines that topping the tree is necessary because the tree has been severely damaged by storms or other causes, or is under utility wires or other obstructions, making other pruning practices impractical, the landscape administrator may issue a tree permit allowing topping of the tree.
- (f) *Ground level cuts:* Where protected tree removal is allowed through exemption or by a tree 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 ground. Where stump removal is also desired, stump grinding shall be allowed or, upon approval by the landscape administrator, a trench may be cut between the two trees sufficient to cut the roots near the tree to be removed, thereby allowing removal of the remaining stump without destruction of the root system of the saved tree.

(Ord. No. 03-21, § 12.0, 7-31-03)

Sec. 9-7-13. - Tree planting restrictions.

A person commits an offense if the person:

- (1) Plants any required replacement tree within an area such that the mature canopy of the tree will interfere with overhead utility lines;
- (2) Plants any required replacement tree or street tree within an area such that the mature root zone of the tree will interfere with underground public utility lines (including water lines, sewer lines, transmission lines or other utilities);
- (3) Plants a tree within ten feet of a fire hydrant; or
- (4) Plants a street tree closer than 35 feet to a street corner, measured from the point of nearest intersecting curbs or curb lines.

(Ord. No. 03-21, § 13.0, 7-31-03)

Sec. 9-7-14. - Tree survey required before grading.

A person commits an offense if the person grades or causes grading on any property in the City prior to obtaining a grading permit. No grading permit shall be issued until a tree survey, if required, has been submitted to and approved by the landscape administrator.

(Ord. No. 03-21, § 14.0, 7-31-03)

Sec. 9-7-15. - Enforcement.

- (a) *Developer's agreement:* The City shall not approve a developer's agreement unless it provides that all construction activities shall meet the requirements of this chapter.
- (b) *Building permit:* No building permit shall be issued unless the applicant signs an application or permit request which states that all construction activities shall meet the requirements of this chapter. The building official shall make available to the applicant:
 - (1) A copy of the tree preservation ordinance or a condensed summary of the relevant aspects pertaining to the type of permit requested; and
 - (2) A tree protection sign.
- (c) *Acceptance of improvements:* The City may refuse to accept any public improvements until the person pays all civil penalties for violations of this chapter or complies with section 9-7-7 of this chapter; provided, however, that acceptance of public improvements shall be authorized before all trees have been replaced if, with the landscape administrator's approval, the person furnishes the City with a cash deposit or surety bond in the approximate amount of the cost to replace the trees.
- (d) *Certificate of occupancy:* No certificate of occupancy (C.O.) shall be issued until all civil penalties for violations of this chapter have been paid to the City. No certificate of occupancy shall be issued until all replacement trees have been planted or appropriate payments have been made to the reforestation fund; provided, however, that a certificate of occupancy may be granted before all trees have been replaced if, with the landscape administrator's approval, the person furnishes the City with a cash deposit or surety bond in the approximate amount of the cost to replace the trees.

(Ord. No. 03-21, § 15.0, 7-31-03)

Sec. 9-7-16. - Violations.

- (a) Any person who:
 - (1) Violates section 9-7-3 of this chapter by altering a protected tree without first obtaining a tree permit from the City, or by altering trees in violation of the permit, or

- (2) Violates section 9-7-7 of this chapter by failing to follow the tree replacement procedures, shall:
 - a. Be assessed a penalty by the landscape administrator equal to \$100.00 per diameter inch of the tree(s) altered; and
 - b. Be guilty of a misdemeanor and upon conviction shall be fined \$100.00 per diameter inch of the tree(s) altered, not to exceed \$1,000.00 per incident. The unlawful alteration of each protected tree shall be considered a separate incident and each incident subjects the violator to the maximum penalty set forth herein for each tree.
- (b) Any person, firm, corporation, agent or employee thereof who violates any other provisions of this chapter shall be guilty of a misdemeanor and upon conviction hereof shall be fined not to exceed \$1,000.00 for each incident. The unlawful alteration of each protected tree shall be considered a separate incident and each incident subjects the violator to the maximum penalty set forth herein for each tree.
- (c) A person is criminally responsible for a violation of this chapter if the person alters, or permits or causes to be altered, a protected tree without complying with the requirements of this chapter.

(Ord. No. 03-21, § 16.0, 7-31-03)

Division 9. Trees and Vegetation

Sec. 22.03.300 Purpose

(a) This division is adopted to promote and enhance a superior community environment, to maintain the rural character, to maintain air quality and ecologic balance, to maintain property values, to provide soil stabilization, to filter stormwater runoff, and to ensure the maximum preservation of the valuable natural features and scenic rural/wooded character as contemplated in the master plan of the city by establishing minimum standards and requirements relating to the protection of trees and natural vegetation.

(b) It is intended that this division be administered with the foregoing purposes in mind and specifically so as to:

- (1) Ensure, insofar as practical in permitting development of land and minimizing fire hazard, the maximum retention of natural vegetation to aid in protection against erosion of top soil, preservation of natural scenic qualities and healthy ecosystems of the city through good conservation practices, protection from flooding or landslides, noise absorption, maintenance of privacy, and in providing habitat, shade and color;
- (2) Protect mature trees and significant stands of trees in order to retain as many as possible consistent with the purposes set forth herein and also consistent with reasonable economic enjoyment of private property. In this context, privately owned trees have an impact on the quality of life for the entire community;
- (3) Preserve the rugged beauty and natural environment that defines the character of the city and makes it a unique and desirable community; and
- (4) Require the removal of all confirmed dead brush, vegetation, and trees from all properties in order to reduce the risk of wildfire. In the case of dead trees and dead understory, the city inspector must confirm that the vegetation is indeed dead prior to its removal in order for the owner to avoid replacement requirements as described in [section 22.03.304](#)(d) below.

Sec. 22.03.301 Definitions

Ashe Juniper. *Juniperus ashei* (commonly known as Cedar, Post Cedar, Mountain Cedar, or Blueberry Juniper) is a native, drought-tolerant evergreen shrub or small tree.

Canopy. For forests the term canopy is used to refer to the extent of the outer layer of leaves of an individual tree or group of trees.

Fire safety buffer zone (FSBZ). A concept of defensible space in a wildland-urban interface (WUI) created around the perimeter of a structure to reduce the risk that fire will spread from the surroundings to the structure as well as from the structure to the surroundings and provide firefighters access and a safer area to defend.

Firescaping. Is landscape design that reduces house and property vulnerability to wildfire. The goal is to develop a landscape with a design and choice of plants that offers the best fire protection and enhances the property. The idea is to surround the house with things that are less likely to burn. It is imperative when building homes in wildfire-prone areas that fire safety be a major factor in landscape design. Appropriate manipulation of the landscape can make a significant contribution toward wildfire survival.

Fuel ladder effect. A firefighting term for live or dead vegetation that allows a fire to climb up from the landscape or forest floor into the tree canopy; common fuel ladders include tall grasses, shrubs, and tree branches i.e. understory, both living and dead. It is also part of defensible space firescaping practices.

Imminent or immediate threat to persons or property. A tree, trees, or part of a tree that poses an imminent or immediate threat of injury to persons or damage or destruction to property as determined by the city inspector or city administrator.

Limbing-up. To cut or lop live or dead branches of a tree to raise its crown or canopy in order to manage fuel ladder affect of a ground fire to the canopy.

Non-native invasive species. (Also called “non-indigenous,” “non-native” or “alien”) exotic pest plants and invasive exotics growing in native plant communities that adversely affect the wild life habitats and bioregions they invade, economically, environmentally, and/or ecologically. Examples of the most troublesome non-native

invasive species trees and plants in our area as identified by the City of Austin are as follows (ref: <http://www.austintexas.gov/invasives>):

(1) Trees:

- Tree of Heaven (*Ailanthus altissima*)
- Mimosa, Silk Tree (*Albizia julbrissin*)
- Paper mulberry (*Broussonetia papyrifera*)
- Chinese Parasol Tree (*Firmiana simplex*)
- Large/WaxLeaf Privets (*Ligustrum lucidum*, *Ligustrum japonicum*, *Ligustrum vulgare*)
- Chinaberry tree (*Melia azedarach*)
- Chinese Pistache (*Pistacia chinensis*)
- Chinese tallow tree (*Triadica sebifera* or *Sapium sebiferum*)

(2) Shrubs and grasses:

- Small Leaf Privets (*Ligustrum quihoui* or, *Ligustrum sinense*)
- Running Bamboo (*Phyllostachys aurea*)
- Heavenly Bamboo/Sacred Bamboo (*Nandina domestica*)
- Golden Bamboo (*Phyllostachys aurea*)
- Johnsongrass (*Sorghum halepense*)
- King Ranch Bluestem (*Bothriochloa ischaemum* var. *songarica*)
- Arundo Donax (Carizzo Cane)

Pruning. To cut or lop superfluous or undesired twigs, branches, or roots from; trim; the horticultural altering the form or shape of a plant. For trees this may be raising its canopy, reducing its width or canopy volume.

Understory. An underlying layer of vegetation comprised of small trees, tall grasses and shrubs between the forest canopy and the ground cover.

Sec. 22.03.302 Preservation of existing landscape vegetation and natural features

- (a) Landscape shall be preserved in its natural state to the greatest extent possible.
- (b) Vegetative screening shall be maintained to the greatest extent possible, especially along the perimeter of all properties in order to maximize the screening and buffering of structures, driveways and parking areas from adjacent properties.
- (c) Structures, driveways, and parking areas shall be designed and located to fit harmoniously with the natural terrain and to minimize the necessity for removing trees, vegetation, and soil, or the addition of fill.
- (d) It is unlawful for any property owner or tenant to harbor dead trees, dead vegetation, dead brush piles, and other flammable dead organic material on their property. Exceptions would be allowed for contained compost piles and stacked and stored firewood. In order to reduce the risk of fire on all properties, all dead trees and brush piles, and other flammable dead organic material shall be cleared and removed in accordance with [section 22.03.303](#) below. In the case of dead trees and understory, the city inspector must confirm that the vegetation is dead prior to its removal in order for the owner to avoid replacement requirements as described in [section 22.03.304](#)(d) below.
- (e) The city is responsible for all vegetation and trees that are located on city-owned property.

Sec. 22.03.303 Required permits and tree survey

- (a) Prohibition. No trees or vegetation may be removed from any property except as allowed under subsections (b), (c) or (d) below. Anyone wishing to remove trees or vegetation under any other conditions must receive a variance from the city.
- (b) No-fee permit. A no-fee permit issued by a city inspector is required to remove:
 - (1) Single tree. A single tree with a trunk diameter of less than ten (10) inches (as measured at a point 54 inches above the ground) once per calendar year.

(2) Understory vegetation. In order to establish a small yard or septic field only when deemed appropriate by the city inspector, except as allowed in subsection (3) below.

(3) New construction. Trees or vegetation for any new construction or expansion of structures, driveways, parking areas or a small yard not visible from streets or adjacent properties at an elevation consistent with a site plan and/or building permit previously approved/issued by the city. In such cases, an additional building permit is required under article 22.03 of this code. Please see subsection (4) below for additional replacement requirements related to new construction.

(4) Fire safety buffer zone.

(A) Trees less than twelve (12) inches in diameter (as measured at a point fifty-four (54) inches above the ground) and understory vegetation to establish a “fire safety buffer zone” (FSBZ) as part of firescaping according to Firewise Landscape Design and The Texas Forest Service at Texas A&M, which is defined as an area of land extending up to thirty (30) feet from the perimeter of habitable structures established for fire prevention purposes.

(B) This FSBZ may be expanded, upon approval of the city inspector, to include an area up to one hundred (100) feet from the perimeter of habitable structures for those lots having down slopes in excess of 25% below the habitable structure only for the removal of Ashe Junipers (commonly referred to as “cedars”) if less than twelve (12) inches in diameter as measured at a point fifty-four (54) inches above the ground.

(C) Trees removed to establish a FSBZ, as described in this subsection, do not require replacement, except:

(i) Full replacement inches are required for trees and vegetation removed to establish the FSBZ in the proposed footprint of any new construction or expansion of structures within a FSBZ within five (5) years of issuance of the permit for the FSBZ.

(ii) Full replacement inches are required for trees and vegetation removed to expand a FSBZ (related to new construction) within five (5) years of issuance of the permit for a prior FSBZ.

(5) Non-native invasive species tree(s) or plant(s). Non-native invasive species trees, plants and shrubs do not require replacement as long as the city arborist/inspector identifies them as such and stipulates that no adverse effect of erosion will occur from the removal. In the case of non-native invasive shrubs or understory that serve as understory vegetative screening at external perimeter of property, the city inspector may require replacement native vegetative screening to be installed along the periphery of the property when, at the city inspector’s discretion, the screening is necessary and reasonable to mitigate the community impact of the loss of the removal and to maintain the rural feel of the neighborhood.

(6) When removing live conifers and Juniperus species (commonly referred to as “cedars”) of three (3) inches in diameter or less as measured at a point fifty-four (54) inches above the ground as a fire prevention measure whether inside or outside of a fire safety buffer zone. Trees removed in accordance with this subsection do not require replacement.

(7) When removing diseased, dying or dead trees. or a tree that poses an imminent or immediate threat to persons or property as determined by the city inspector or city administrator, under the following conditions:

(A) The property owner must submit a request for the permit to the city inspector specifying the affected species, location,. and trunk diameter, including a description of the threat if applicable.

(B) If the city inspector concurs with the property owner’s assessment of the condition of the tree, then the permit shall be issued.

(C) If the city inspector does not concur with the property owner’s assessment of the condition of the tree, then the property owner shall have the right to submit a signed letter from a certified arborist identifying the specific disease, condition from which the tree suffers, or the threat it poses and providing a professional justification for the tree’s removal. The city administrator shall then consider the arborist’s letter and determine if a permit is warranted. If the city administrator does not approve the permit, then the applicant may appeal the decision to the city council.

(D) In all cases, the permit for removal must be received prior to removal of the tree except as otherwise provided for in subsection (c) below.

(c) Timing for no-fee permit. The no-fee permit must be received prior to removal except when said

trees or vegetation have naturally fallen onto a structure and/or are blocking a driveway, sidewalk or other means of egress from a property or structure. In such cases, the permit must be secured by the end of the next business day. Any tree stump(s) must be left in place until the city inspector has come on-site to measure the stump(s) for the purpose of determining the replacement requirements (if any).

(d) Exception.

- (1) A permit is not required to remove trees or vegetation in the following instances:
 - (A) When the vegetation removal is considered common household gardening or ground care.
 - (B) When pruning live trees so that no more than 25% of a tree's live foliage shall be trimmed off or pruned per year. The Texas Forest Service at Texas A&M's best management practices recommends removing no more than 25% of the live foliage within the tree canopy in an annual growing season. Refer to [article 24.04](#) regarding pruning times and methods for Oak Wilt prevention.
 - (C) When removing dead vegetation, dead brush piles, and other flammable dead organic material.
 - (D) Limbing-up. When removing dead or living limbs to reduce the fuel ladder effect as follows:
 - (i) Trees that are fifteen (15) feet or higher may be limbed up to nine (9) feet;
 - (ii) Trees that are twenty (20) feet or higher may be limbed up to twelve (12) feet if they are within 30 feet of a habitable structure;
 - (iii) In all cases, no more than 25% of the tree's live foliage may be removed per year.
 - (2) Exemption from the requirement to obtain a permit does not exempt a person from adhering to the Code of Ordinances.
- (e) Permit application process. Each application for a tree removal permit shall be made by the owner of the property or by the owner's authorized agent. Applicants may contact the city by phone, U.S. mail, fax, email or in person to request an appointment with the city inspector who will conduct an on-site meeting with the applicant in order to document the size, species, location and condition of the tree(s) to be removed. If granted by the city inspector in accordance with subsection (f) below, the applicant will receive a copy of the approved application to serve as the permit for display per subsection (g) below and the city shall retain a copy for its records.
- (f) Issuance. The city inspector shall issue the proper permit once the completed application providing the relevant criteria defined in this division have been met.
- (g) Display. The property owner must display the permit near the mailbox or primary entrance to the property for the duration of the vegetation removal process.

(h) Expiration. Tree removal permits issued in accordance with this section for new construction shall expire two (2) years from the date of issuance. If the associated building permit issued for the new construction expires or is revoked for any reason, then the tree removal permit shall expire as well. All other permits issued for removal in accordance with this section shall expire ninety (90) days.

(i) Tree survey. Applications for tree removal variances where no construction is involved, and thus bypasses ZAPCO going directly to the city council, must include a tree survey.

Sec. 22.03.304 Tree and vegetation removal and replacement

(a) Removal policy.

- (1) Existing vegetation shall be left undisturbed to the maximum extent possible. In most circumstances, if a tree must be removed, it shall be replaced with a native, non-invasive species so that the native, natural landscape of the city is preserved for future generations.
- (2) Trees less than ten (10) inches in diameter measured at a point fifty-four (54) inches above the ground may be removed with a permit in accordance with [section 22.03.303\(b\)](#).
- (3) Trees greater than or equal to ten (10) inches and less than fourteen (14) inches in diameter measured at a point fifty-four (54) inches above the ground may be removed with a permit in accordance with [section 22.03.303\(b\)\(4\)](#). If a tree greater than or equal to ten (10) inches and less than fourteen (14) inches in diameter does not meet the requirements of [section 22.03.303\(b\)\(4\)](#) then the removal shall be requested through a variance as described by subsection (a)(4) of this section.
- (4) The removal of trees greater than or equal to fourteen (14) inches in diameter measured at a point

fifty-four (54) inches above the ground, or a tree greater or equal to ten (10) inches and less than fourteen (14) inches in diameter that does not meet the requirements of [section 22.03.303\(b\)\(4\)](#), is prohibited except as allowed under [section 22.03.303\(b\)\(7\)](#) and therefore such removal requires a variance from the city council as outlined in section 22.03.308.

(b) Removal procedure.

(1) Tree survey.

(A) For all new construction on an undeveloped lot without existing structures, the property owner must provide the city inspector with a tree survey of the entire property.

(B) For all new construction on a developed lot with existing structures, the city administrator at his sole discretion may allow the property owner to submit a tree survey of less than the entire property.

(C) All tree surveys must be conducted by a state-registered surveyor or engineer prior to a permit being issued and must include all trees with trunk diameters of three (3) inches or greater at twelve (12) inches above the ground.

(D) All trees to be removed must be highlighted or marked on the survey.

(2) Trunk diameters of the trees that the property owner proposes to remove shall be measured at a point fifty-four (54) inches above the ground. If a tree trunk splits at a height of less than fifty-four (54) inches, the tree diameter shall be calculated by adding the sum of the diameter of the largest stalk, plus one-half (1/2) of the diameter of all remaining smaller stalks all measured at a point fifty-four (54) inches above the ground.

(c) Violation of removal procedure.

(1) No person shall remove a tree in violation of this division.

(2) The diameter of trees removed in violation of this division shall be measured at the widest portion of the exposed base of the trunk for purposes of calculating replacement requirements. If no exposed base of trunk exists, then the city inspector shall estimate the diameter of trees that were removed for purposes of calculating replacement requirements.

(3) Any person removing tree(s) or vegetation in violation of the regulations provided in this division shall replace the tree(s) removed with tree(s) of equivalent species and size (caliper inches and canopy diameter). If tree(s) removed are not exhibit A tree(s), then exhibit A tree(s) must be used as replacements.

(4) Any person violating any of the provisions of this division shall be deemed guilty of a class C misdemeanor, and such offense shall be punishable by a fine not to exceed two thousand dollars (\$2,000.00) per offense. Each tree removed in violation of this division shall be considered a separate offense. A person does not commit an offense under this section unless the person intentionally, knowingly, recklessly, or with criminal negligence engages in conduct as the definition of the offense requires.

(5) It is a separate offense to fail to replace trees or vegetation, or remit to the city cash-in lieu, as provided in this code, within 601 days of issuance of a final order by the city.

(6) Criminal fines imposed under this code are in addition to replacement requirements and any other remedies available at law or in equity.

(d) Calculating tree replacement requirements.

(1) Trees of any species with a trunk diameter of less than six (6) inches do not require replacement.

(2) Conifer and Juniper trees (commonly referred to as "cedars") with a trunk diameter of less than twelve (12) inches that are removed to establish a fire safety buffer zone in accordance with [section 22.03.303\(b\)\(5\)](#) do not require replacement.

(3) Conifer and Juniper trees (commonly referred to as "cedars") with a trunk diameter of three (3) inches or less that are removed as a fire prevention measure in accordance with [section 22.03.303\(b\)\(6\)](#) do not require replacement.

(4) To compensate for the removal of live trees that are not diseased, dying or dead (as defined in accordance with [section 22.03.303\(b\)\(7\)](#)) and that are removed in accordance with this section, the property owner must install replacement trees according to the following requirements:

(A) All trees with trunk diameters equal to or greater than six inches and less than fourteen (14) inches must be replaced on a 75% basis. In such cases, the replacement trees planted must have trunk diameters of at least two (2) inches. For example, if a twelve (12) inch tree is removed, then a total of nine (9) replacement inches must be planted using trees with a minimum trunk diameter of two (2) inches.

(B) (i) All trees with trunk diameters greater than or equal to fourteen (14) inches require a variance to subsection (a)(4) above and must be replaced on a 150% basis. For example, if a sixteen (16) inch tree is removed, then a total of twenty-four (24) replacement inches must be planted using single-trunk trees with a minimum trunk diameter of at least two (2) inches.

(ii) Trunk diameter less than six (6) inches: No replacement required.

(iii) From six (6) inches to less than fourteen (14) inches: 75% replacement required: Must use replacement trees with trunk diameters of at least two (2) inches.

(iv) Fourteen (14) inches and larger: Requires variance; 150% replacement required: Must use replacement single-trunk trees with trunk diameters of at least two (2) inches.

(5) To compensate for the loss of diseased or dying trees, or a tree that poses an imminent threat to persons or property, removed in accordance with this section and with [section 22.03.303\(b\)\(7\)](#), the property owner must install replacement trees on a 50% basis. In such cases, the replacement trees planted must have trunk diameters of at least one and one half (1-1/2) inches. For example, if a nine (9) inch tree is removed, then a total of four and one half (4-1/2) replacement inches must be planted using trees with a minimum trunk diameter of one and one half (1-1/2 inches).

(6) In the case of dead trees removed in accordance with this section and with [section 22.03.303\(b\)\(7\)](#), no replacement is required.

(7) For purposes of calculating the replacement inches as required above, the trunk diameters of all replacement trees shall be measured at a point twelve (12) inches above the ground.

(8) Replacement trees shall count on an inch-for-inch basis.

(9) When using a species with multiple trunks (e.g., Texas Mountain-Laurel, Yaupon Holly, etc.) for replacement purposes, the following chart shall be used to convert the planting container measurement to the equivalent trunk diameter for the purposes of this section:

Planting Container Size	Equivalent Trunk Diameter
20 gallons	3 inches
30 gallons	4 inches
40 gallons	5 inches

(10) The planting of native grasses or ground cover is encouraged, but shall not satisfy any tree replacement requirement.

(e) Replacement procedure.

(1) The replacement trees shall be planted in appropriate locations with species listed in exhibit A only. When installing replacement trees, priority should be given to the setback areas and other locations in order to maximize the visible screening of buildings and structures on the property from adjacent properties. If an appropriate location cannot be located on the property in question, the city may allow the property owner to plant replacement inches on an alternate site owned by the city or the property owner based on the reforestation needs of the city if:

(A) Both the city and property owner agree on the location; and

(B) The location is within the city limits of the city.

(2) Whenever replacement is required, the property owner shall submit to the city inspector for approval a replacement site plan showing the locations, species and sizes of all replacement trees and vegetation prior to their installation. If during installation, the property owner is reasonably unable to

conform to the approved replacement site plan, then the property owner must submit an amended site plan to the city inspector within seven (7) days of installation and ultimately subject to the city inspector's approval.

(3) Installation of the replacement trees must be completed prior to the expiration of the tree removal permit and within ninety (90) days of receiving the approval of the replacement site plan from the city inspector. The city inspector may allow for additional time upon request due to weather or other circumstances beyond the property owner's control.

(4) The property owner shall notify the city inspector upon completion of installation. The city inspector shall then verify that the installation conforms to the approved replacement site plan.

(5) All replacement and relocated trees must survive at least three (3) years. The city inspector may contact the property owner during this three (3) year period to arrange for a site visit by the city inspector in order to confirm that the trees have survived. Trees that do not survive for three (3) years must be replaced.

(f) Landscape fund.

(1) There is hereby created a landscape fund for the city.

(2) To qualify for the exceptions enumerated under this subsection (f), an applicant must provide a tree replacement site plan that accommodates at least 90% of the tree replacement inches otherwise required under this section. An applicant who has demonstrated the ability to replace this minimum threshold has qualified as "substantially complete."

(3) When the city administrator determines that tree replacement requirements of this section cannot be reasonably satisfied on site, and the applicant has met the threshold of substantially complete, the remaining required replacement inches for trees greater than ten (10) inches (as measured at a point fifty-four (54) inches above the ground) may be satisfied by the payment in the amount as provided in [appendix A](#) to this code to the city and placed in the city's landscape fund in lieu of planting additional required replacement trees. In making the discretionary determination, the city administrator shall consider the topography, existing and proposed structures, and condition of remaining vegetation.

(4) In the event the applicant's replacement plan is not substantially complete (i.e., it cannot meet the 90% threshold set forth above), the city council will have the sole authority to determine what, if any, monetary funds may be accepted in lieu of tree replacement. The city council reserves the right to require the applicant to comply with all tree replacement requirements under this section.

(5) Proceeds accumulated in the landscape fund shall be expended solely on tree preservation or landscaping projects on public property throughout the city.

Sec. 22.03.305 Tree care and maintenance

(a) Tree pruning must not be done in a manner that is detrimental to the tree. Any action undertaken which intentionally or recklessly causes or tends to cause injury, death, or disfigurement to a tree is considered to be detrimental. Examples of detrimental actions which are prohibited may include cutting, poisoning, burning, over-watering, relocating, or transplanting a tree.

(b) Tree protection that meets City of Austin standards must be provided during any construction project. City of Austin standards can be found online at http://www.ci.austin.tx.us/trees/preserve_code.htm.

(c) Compliance with all oak wilt regulations found within this code is required, including, but not limited to, the immediate application of an appropriate pruning sealant on all fresh cuts. For more information about oak wilt diagnosis, treatment and prevention, please visit the Texas Forest Service's website at <http://www.texasoakwilt.org/>.

EXHIBIT A

ELIGIBLE SPECIES FOR TREE REPLACEMENT

Small Trees/Large Shrubs, Deciduous

- American Smoketree (Cotinus obovatus)
- Anacacho Orchid-tree (Bauhinia congesta)
- Carolina Buckthorn (Rhamnus caroliniana)

- Common Hoptree (*Ptelea trifoliata*)
- Desert-Willow (*Chilopsis linearis*)
- Goldenball Leadtree (*Leucaena retusa*)
- Honey Mesquite (*Prosopis glandulosa*)
- Huisache (*Acacia farnesiana*)
- Mexican Buckeye (*Ungnadia speciosa*)
- Mexican Plum (*Prunus mexicana*)
- Mexican Redbud (*Cercis canadensis* var. *mexicana*)
- Paloverde (*Parkinsonia aculeata*)
- Possum-Haw Holly (*Ilex decidua*)
- Prairie Flameleaf Sumac (*Rhus lanceolata*)
- Prickly Ash (*Zanthoxylum hirsutum*)
- Red Buckeye (*Aesculus pavia*)
- Rusty Blackhaw (*Viburnum rufidulum*)
- Rough-Leaf Dogwood (*Comus drummondii*)
- Texas Buckeye (*Aesculus glabra* var. *arguta*)
- Texas Redbud (*Cercis canadensis* var. *texensis*)
- Wooly Bumelia (*Bumelia lanuginosa*)
- Small Trees/Large Shrubs, Evergreen**
- Eve's Necklace (*Sophora affinis*)
- Yaupon Holly (*Ilex vomitoria*)
- Texas Mountain-Laurel (*Sophora secundiflora*)
- Texas Persimmon (*Diospyros texana*) (semi-evergreen)
- Texas Pistache (*Pistacia texana*)
- Cherry Laurel (*Prunus caroliniana*)
- Spanish Bayonet (*Yucca treculeana*)
- Torrey Yucca (*Yucca torreyi*)
- Medium-Large Trees, Deciduous**
- Escarpment Black Cherry (*Prunus serotina* var. *eximia*)
- Bald Cypress (*Taxodium distichum*)
- American Elm (*Ulmus americana*)
- Cedar Elm (*Ulmus crassifolia*)
- Texas Madrone (*Arbutus texana*)
- Bur Oak (*Quercus macrocarpa*)
- Chinquapin Oak (*Quercus muehlenbergii*)
- Durand Oak (*Quercus sinuata* var. *sinuata*)
- Lacey Oak (*Quercus laceyi*)
- Post Oak (*Quercus stellata*)
- Monterrey Oak/Mexican White Oak (*Quercus polymorpha*)
- Shin Oak (*Quercus sinuata* var. *breviloba*)
- Shumard Red Oak (*Quercus shumardii*)
- Texas Red Oak (*Quercus texana*)

Pecan (*Carya illinoensis*)
Texas Ash (*Fraxinus texensis*)
Sycamore (*Platanus occidentalis*)
Texas Walnut (*Juglans microcarpa*)
Western Soapberry (*Sapindus drummondii*)

Medium-Large Trees, Evergreen

Live Oak (*Quercus virginiana*)
Plateau Live Oak (*Quercus fusiformis*)
(Ordinance 363 adopted 4/11/18)

Secs. 22.03.306–22.03.330 Reserved