

- a. A living/landscaped screen in conjunction with decorative metal (e.g., wrought iron) fence sections with masonry columns;
 - b. A combination of berms and living/landscaped screening;
 - c. A combination of berms, decorative masonry walls and living/landscaped screening, either with or without a decorative metal or “FenceCrete” type of fence with masonry columns; or
 - d. Some other creative screening alternative may be approved if it meets the spirit and intent of this section, if it is demonstrated to be long-lasting and generally maintenance-free, and if the Planning and Zoning Commission find it to be in the public interest to approve the alternative screening device.
3. Time Required for Opacity
- Any required screening device shall be, or shall achieve, at least six feet (6’) in height and at least ninety percent (90%) opacity within three (3) years of initial installation/planting.
4. Maintenance Easement
- A wall/screening maintenance easement at least five feet (5’) in width shall be dedicated to the home owners association on the private lot side and adjacent to the entire length of the screening wall or device for maintenance and repair of the screening wall.
5. Installation
- The screening/wall/device shall be installed prior to final acceptance of the subdivision public improvements. All landscape materials, if utilized, shall be installed in accordance with section 21.9.7. Failure to properly install all components of a required screening wall or device within the prescribed time frame shall constitute a violation of this UDC, and shall authorize the Public Works Director to refuse acceptance of the subdivision public improvements.
6. Design of Walls
- All masonry, wrought iron, steel or aluminum screening wall plans and details must be designed and sealed by a licensed professional engineer, and must be approved by the City. Use of chain-link, chicken-wire, hog-wire fencing, and any other material similar in appearance and quality is expressly prohibited for meeting the requirements of this section.
7. Height of Screening
- The height of required screening devices, including spans between columns, shall be a minimum of six feet (6’) and shall be no more than eight feet (8’). Decorative columns, pilasters, stone caps, sculptural elements, and other similar features may exceed the maximum height by up to two feet (2’) for a total maximum height of ten feet (10’) for these features.
8. Other Easements
- Screening fences, walls and devices shall not be constructed within any portion of a utility or drainage easement unless specifically authorized by the City and by any other applicable utility provider(s).

Sec. 21.9.9 Tree Preservation and Mitigation

A. Purpose and Intent

1. The purpose of this section is to conserve, protect and enhance existing healthy trees and natural landscape. It is recognized that the preservation of existing trees contributes to the overall quality and environment of the City. Trees can and do contribute to the processes of purification, oxygenation, regeneration, groundwater recharge, reduction of pollution and contaminants in aquifers, erosion and dust control, abatement of noise, provision of wildlife habitat and enhancement property values. Indiscriminate clearing or stripping of natural vegetation on any parcel is prohibited.
 2. It is hereby declared the intent of the City to encourage the preservation of all trees within the City limits. While the layout of a property with respect to the placement of buildings, parking facilities and other site requirements is at the discretion of the developer of the property, it is the policy of the City to promote site layout and design in a manner which preserves the maximum amount of Protected and Heritage Trees possible.
- B. Applicability and Exemptions
1. The provisions of this section are applicable to the following:
 - a. All new residential and nonresidential development within the City;
 - b. Redevelopment of any residential or nonresidential property within the City that results in an increase in the building footprint or the total destruction and reconstruction;
 - c. Any grading, filling or clearing of land in the City limits; and
 - d. Any selective or individual removal of any Protected or Heritage Tree in the City limits.
 2. The following definitions shall be applicable to the provisions of this section:
 - a. Protected Trees
Trees having a DBH (diameter at breast height measured four feet (4') above existing ground level) between eight inches (8") and less than twenty-four inches (24") are designated as "Protected Trees".
 - b. Heritage Trees
Trees having a DBH greater than or equal to twenty-four inches (24") are designated as "Heritage Trees".
 - c. Damage
Damage shall be considered any injury to a tree including, but not limited to:
 - i. Uprooting;
 - ii. Severance of the root system or main trunk;
 - iii. Storage of topsoil, construction materials, debris or chemicals within the drip line area;
 - iv. Compaction of soil within the drip line area;
 - v. A substantial change in the natural grade above a root system or within the drip line area;
 - vi. Pruning or removal of more than twenty-five percent (25%) of the living tissue; or

- vii. Paving with concrete, asphalt or other impervious material within the drip line area. Tree grates or tree wells may be provided to preserve pervious surface within the drip line area.
3. The following are exempt from the preservation, mitigation and permitting requirements of this section:
- a. Protected Trees located within, and within ten feet (10') of, the building footprint;
 - b. Protected Trees located within the area of a proposed on-site sewage facility (OSSF);
 - c. Protected Trees located within a right-of-way to be dedicated to and maintained by the City and shown on the City's Thoroughfare Master Plan;
 - d. Protected Trees located within any utility easement;
 - e. Trees damaged or destroyed by floods, fire, wind or other natural causes;
 - f. Trees that have been determined by a registered Arborist to be dead or dying; and
 - g. The following exempted tree species:

Table 21.9.7 Exempted Trees	
<u>Common Name</u>	<u>Scientific Name</u>
Hackberry	<i>Celtis occidentalis</i>
Eastern Red Cedar	<i>Juniperus virginiana</i>
Common Ashe Juniper	<i>Juniperis ashei</i>
Chinaberry	<i>Melia azedarach</i>
Mesquite	<i>Prosopis spp.</i>
Ligustrum	<i>Ligustrum spp.</i>

- 4. All Heritage Trees to be removed shall be mitigated for in accordance with the provisions of this section.

C. Tree Preservation

The existing natural landscape character, especially native oaks, elms, and pecan trees, shall be preserved to the maximum extent reasonable and feasible. Except as otherwise exempted in section 21.9.9.B.3 above, a Tree Removal Permit is required for the removal of any tree with a DBH greater than eight inches (8").

1. Protected Trees

Any Protected Trees not exempt from preservation in section B.3 above may be removed upon approval of a Tree Removal Permit by the Director of Parks, Recreation and Community Services. Any decision of the Director of Parks, Recreation and Community Services regarding a Tree Removal Permit may be appealed to the BOA in accordance with section 21.4.14 of this UDC.

2. Heritage Trees

Any Heritage Trees to be removed may be removed upon approval of a Tree Removal Permit by the Planning and Zoning Commission. Any decision of the Planning and Zoning Commission regarding a Tree Removal Permit may be appealed to the City Council. All Heritage Trees shall be required to meet the mitigation requirements of this section.

D. Tree Mitigation

Any trees that are removed or damaged as a result of the approval of a Tree Removal Permit shall be mitigated for on the same site as the proposed development. The species of trees planted for mitigation purposes may not include those listed as exempt in section B.3 above nor any of the undesirable trees identified in Table 21.9.6. All trees planted for mitigation purposes must be a species of shade tree identified in Table 21.9.1. In the event that mitigation is not feasible on the same site as the proposed development, an applicant may request to donate trees, meeting the mitigation requirements of this section, to be planted at public parks, schools, or other approved public facilities throughout the City or provide a fee-in-lieu of payment which will be used to place trees at public parks, schools, or other approved public facilities throughout the City. Tree mitigation funds may also be utilized to install irrigation, shrubs, or other landscaping facilities, for maintenance of existing landscaped areas, for repair or removal of damaged or destroyed trees, for preservation and protection of existing Protected and Heritage Trees and for the purchase of equipment to be utilized for the preservation or protection of existing trees. Mitigation requirements are:

1. Protected Trees

Protected trees shall be mitigated at a one-to-one (1:1) DBH inch ratio for every tree removed. Replacement trees shall have a minimum DBH of three inches (3”).

2. Heritage Trees

Heritage trees shall be mitigated at a three-to-one (3:1) DBH inch ratio for every tree removed. Replacement trees shall have a minimum DBH of three inches (3”).

3. Damaged Trees

Any trees that are designated for preservation and are damaged during the construction process or that die within two (2) years of issuance of a certificate of occupancy shall be mitigated for in accordance with section 21.9.9.D.1 and D.2 above.

4. Mitigated Trees

Trees planted and counted towards the necessary mitigation requirements that are damaged after planting or that die within two (2) years of issuance of a certificate of occupancy shall be mitigated for at a one-to-one (1:1) DBH inch ratio for every tree damaged or that dies.

E. Tree Protection Standards

1. All trees to be preserved on site shall be protected from damage caused by site excavation or construction in accordance with the following:
 - a. All trees shall be protected by a fence, frame or box constructed around the drip line of the preserved tree. Protection measures may not be removed until construction is complete.
 - b. A minimum of three inches (3”) of mulch or compost shall be spread beneath the drip line of the preserved tree.
 - c. No person shall excavate any ditches, tunnels, or trenches, place any paving material or place any drive or parking area within the drip line of any Protected or Heritage Tree without prior written approval of the City Manager or his/her designee at the time of Site Plan approval.
 - d. No person shall attach any rope, wire, nails, advertising posters or other contrivance to any Protected or Heritage Tree.
2. The Director of Parks, Recreation and Community Services or his/her designee shall determine the health of oak trees within the City to determine if a tree is threatened by

fatal diseases including Oak Wilt. It is further declared that the loss of oak trees growing on private and public property substantially depreciates the value of property within the City and impairs the safety, good order, general welfare and convenience of the public. It is the intent of the City to control and prevent the spread of Oak Wilt.

- a. If any oak tree is wounded by intentional damage or pruning or as a result of natural causes, the damaged area shall be immediately treated with tree wound dressing.
- b. All necessary and reasonable efforts shall be given during the permitted removal of any trees to utilize best known practices to prevent the spread of Oak Wilt disease to any other surrounding trees.

F. Tree Preservation Credits – Nonresidential and Multifamily Developments

To encourage the preservation of existing Protected or Heritage Trees contained within a proposed development, the following minimum tree preservation credits may be provided. Caliper is the diameter of the tree in inches measured at twelve (12) inches above the ground.

1. Protected Trees shall receive a credit against the minimum required landscaping or mitigation standards at a one-to-one (1:1) caliper inch ratio;
2. Heritage Trees shall receive a credit against the minimum required landscaping or mitigation standards at a three-to-one (3:1) caliper inch ratio; or
3. Protected and Heritage Trees located within a required buffer area shall receive a credit against the minimum buffer requirements at a one-to-one (1:1) DBH inch ratio.

G. Tree Survey Required

Every application for a final plat for residential development or Site Plan for nonresidential and multifamily development shall be accompanied by a tree survey that includes the following information:

1. Total number of caliper inches on the site;
2. Total number of caliper inches to be removed; and
3. Total number of caliper inches to be preserved.

H. Tree Removal Permit

A tree removal permit is required for the removal of any Protected or Heritage Trees not exempt in section 21.9.9.B.2 above. A tree removal permit shall be submitted with the final plat for residential development or Site Plan for nonresidential and multifamily development. The permit must be accompanied by an appropriate application and shall contain a tree preservation plan showing the following:

1. Existing/proposed topography;
2. Location of property lines, easement, rights of ways, setbacks, parking areas and sidewalks;
3. Location, species and size (in DBH) of each Protected and Heritage Tree, except those trees exempted by section 21.9.9.B.2.f above;
4. A tree inventory that summarizes the following:
 - a. Total number of caliper inches on the site;
 - b. Total number of caliper inches to be removed;

- c. Total number of caliper inches to be preserved;
 - d. Location of any proposed tree mitigation; and
 - e. Any proposed tree preservation credits; and
5. A summary of the tree protection methods to be utilized.
- I. Criteria for Tree Removal Permit

In order to receive approval of a Tree Removal Permit, the Director of Parks, Recreation and Community Services or the Planning and Zoning Commission, or City Council on appeal, must make certain findings as outlined in this section. The Director of Parks, Recreation and Community Services or the Planning and Zoning Commission, or City Council on appeal, may require submittal of a report from a registered Arborist to verify reasons for removal or to determine alternatives to tree removal. Each application for a tree removal permit shall be reviewed and a decision rendered on approval or denial based on the following criteria:

1. The condition of the tree with respect to disease, danger of falling, proximity to existing or proposed structures, interference with existing or proposed private or public facilities or services or the tree presents a clear public safety hazard.
 - a. The tree is dead or is physically damaged to the degree that it is clear that it is likely to fall and injure persons or property.
 - b. The tree is located within, or within proximity to, existing or proposed public rights-of-way and is causing damage to existing public or private facilities or services or may cause damage to proposed public or private facilities and such facilities or services cannot reasonably be relocated or the damage alleviated.
 - c. The condition or location of the tree presents a clear public safety hazard or the foreseeable danger of property damage to an existing or proposed structure and such hazard or danger cannot reasonably be alleviated by treatment or pruning.
2. The tree is proposed for removal in order for the property to achieve compliance with other applicable City requirements and standards (i.e. site design or use standards) or is the location for future construction.
3. Removal of the tree will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees or windbreaks.
4. Removal of the tree will not have a significant negative impact on the tree densities, sizes, canopies and species diversity of existing trees in the area except that consideration shall be given when alternatives to tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zoning district.

Sec. 21.9.10 Park and Open Space Dedication Requirements

A. Purpose

1. The purpose of this section is to provide for the adequate provision of parkland and open space to meet the needs of a growing citizen population; for improvements to existing parkland; for establishment, maintenance and operation of a Parkland Dedication Fund; establish requirements and procedures for governing required dedications of parkland or improvements to existing parkland by subdividers of land, and to provide for cash payments-in-lieu of land by subdividers of land in certain cases.