

## ARTICLE II. TREES\*

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**\*Editor's note:** Ord. No. 1024, adopted Mar. 12, 1996, provided by title for the repeal of Ord. No. 773, adopted May 26, 1987, being art. II, Trees, §§ 106-26--106-32. Secs. 1--7 of Ord. No. 1024 pertained to similar subject matter and have been codified herein as Art. II, §§ 106-26--106-32.

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### Sec. 106-26. Definitions.

For the purpose of this article the following terms, phrases, words and their derivations shall have the meaning given in this section. When not inconsistent with the context, words used in the present tense include the future, words used in the plural include the singular, words used in the singular include the plural, words used in the masculine include the feminine, and words used in the feminine include the masculine. The word "shall" is mandatory and not merely directory.

*Circumference* means the circumference of a tree at D.B.H. (diameter at breast height, or 4 1/2 feet above the ground). Diameter is circumference divided by 3.142.

*City* means the City of Rockport, Texas.

*City tree official* means the City of Rockport official appointed by the city manager to administer the Rockport Tree Ordinance [this article].

*Critical root zone* means, for any tree, the area within a circle centered on the location of the trunk. The circle's diameter is one-half the sum of the broadest and narrowest drip line diameters.

*Damage* means to take any action which could cause a tree's death, either immediately or after a reasonable period of time, such as severing the main trunk or large branches or large roots, girdling, poisoning, carving, mutilating, touching with live wires, crushing or exposing roots, digging or drilling a hole larger than three cubic feet (or a trench) within the critical root zone, covering a substantial part of the critical root zone or compacting a substantial part of the soil in the critical root zone. The above are examples and are not intended to limit this definition.

*D.B.H* means the diameter at breast height, or 4 1/2 feet above grade level. Divide circumference by 3.142 to calculate diameter. This is the standard forestry practice of measuring a tree's diameter or circumference.

*Greenbelt* means that part of a street or highway, usually not covered by sidewalk, or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic. Greenbelt may also refer to that portion of streets or highways which incorporate medians, esplanades, malls, or other designated areas reserved for landscaping or nonvehicular traffic. Greenbelt areas are not necessarily limited to streets or highways.

*Pre-development activity* means demolition, moving of buildings, site clearing or grubbing, grading and any other activity which disturbs the surface of land and is actually undertaken, or customarily undertaken, as preparation for development.

*Property owner* means the person or persons owning such property as shown by the deed records which are kept on file in the county clerk's office of Aransas County, Texas.

*Protected trees* means any trees, whether on public or private property having a trunk diameter of six inches measured at D.B.H.

*Public trees* shall include any trees now or hereafter growing on any street or any public areas.

*Replacement tree* means a tree meeting the minimum criteria for replacement trees as set out in this ordinance.

*Tree* means a woody plant having one well-defined stem or trunk and more or less definitely formed crown, and usually attaining a mature height of at least eight (8) feet.

(Ord. No. 1024, § 1, 3-12-96)

#### **Sec. 106-27. Violation and penalty.**

Each destruction or removal of a protected tree, unless specifically permitted as outlined in this article, shall be considered as a separate violation of this article and shall be subject to the specified penalty as provided.

Any person, firm, or corporation violating or failing to comply with any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum of up to \$500.00 per violation.

(Ord. No. 1024, § 7, 3-12-96)

#### **Sec. 106-28. Public trees generally.**

- (a) All trees within the city limits of Rockport with a D.B.H. of six inches or more shall be considered protected trees.
- (b) All applicants for permits to work on public trees must comply with state and local liability insurance requirements, workmen's compensation and safety codes.
- (c) All work on public trees by the utility companies shall be under the control of the city tree official, in charge of the public trees, through inspections.
- (d) In new subdivisions, ample area should be provided for public trees. The development of new subdivisions should be a joint project of the subdivision owners, city staff and the tree committee with subdivision owners furnishing a tree plot plan conforming to this article to the city tree official.

(Ord. No. 1024, § 2, 3-12-96)

**Sec. 106-29. Tree committee.**

- (a) There is hereby designated a committee to be known as the tree committee to function as an advisory board to city staff in regard to application of the tree ordinance. The tree committee shall be composed of:
  - (1) Three qualified voters of the city.
  - (2) One member from the planning and zoning commission.
  - (3) One member from the park advisory board.
  - (4) The city tree official shall act as liaison and ex-officio member to the committee.
- (b) Candidates for the tree committee shall be appointed by the city council. In selecting citizens for the committee, every consideration shall be given to include urban planners, master gardeners, horticulturists, landscape architects and nurserymen. Appointed members shall serve overlapping three-year terms with no more than two members up for reappointment in any one-year cycle. Beginning on the effective date of Ordinance No. 1239 [February 11, 2003], two members will be appointed for three years, two members for two years and one member for one year. Any vacancy occurring during the unexpired term of a member shall be filled by the city council for the remainder of the unexpired term. The committee shall elect from its members a chairman, vice-chairman, and secretary to serve for one year beginning in July of the year elected.
- (c) Meetings and duties of the "tree committee" shall be as follows:

- (1) The tree committee shall meet as often as needed to conduct business.
- (2) Review construction site plans containing a tree survey or tree plan for either private or public projects within the city limits of Rockport during permit review and the normal course of pre-development activities as required by city codes or as requested by city staff.
- (3) To make recommendations for the removal, replacement, protection or maintenance of protected trees upon real property, public or private and within streets and rights-of-way as designated.
- (4) Resolve conflicts between property owners or developers and city staff in regard to application of this tree ordinance.

(Ord. No. 1024, § 3, 3-12-96; Ord. No. 1120, § 1, 7-27-99; Ord. No. 1239, § 1, 2-11-03)

### **Sec. 106-30. Removal, replanting, and replacement.**

#### *(a) Removal of protected trees.*

- (1) No person or corporation shall remove or cause the removal of any protected tree without first securing approval from the city tree official, as provided in subsections a and b below.
  - a. When site plan approval is required by the building department and/or city council for any private development, the actual or schematic location of such existing protected trees shall be shown on all site plans and such site plans shall be reviewed by the city tree official. The tree official shall then submit his recommendations to the building department within fourteen (14) days after submission of the plans to the city. Final approval of the site plan by the building department shall constitute approval for tree removal of any protected tree indicated on the site plan.
  - b. For all City of Rockport, other governmental agencies, or other public projects, site plans shall be reviewed by the city tree official. The city tree official's approval of these public projects shall constitute approval for tree removal of any protected tree indicated on the project plans.
- (2) The city tree official shall approve removal of a protected tree located on privately owned or public property when it is shown that the tree is diseased, severely damaged, and dead on the site or constitutes a hazard. Removal of such protected trees shall not require replacement trees.
- (3) The city tree official shall approve removal of a protected tree located on privately-owned or public property when a showing is made that the tree is so

located as to prevent reasonable access to the property or as to preclude reasonable and lawful use of the property. Removal of such protected trees shall not require replacement trees.

(4) Removal in residential areas.

- a. The city tree official shall approve removal of protected trees located on privately owned residential property when a showing is made that such trees are in direct conflict with sites for major improvements such as houses, home additions, garages or pools. Removal of such protected trees shall not require replacement trees.
- b. The city tree official and the tree committee may also approve removal of protected trees located on privately owned residential property but not in direct conflict with the site of major improvements. If removal of such protected tree is approved, replacement trees shall not be required.

(5) Removal in public streets, alleys, right-of-way or other public lands. The city tree official shall approve the removal of a protected tree in connection with construction, maintenance or repair of public facilities in or upon a public street, alley, right-of-way or other public land under one or more of the following conditions:

- a. The location of the tree prevents the opening of reasonable and necessary vehicular traffic lanes in a street or alley.
- b. The location of the tree prevents the construction of utility lanes or drainage facilities which may not feasibly be rerouted.

Removal of such protected trees shall not require replacement trees.

(6) Removal in greenbelt areas. No person, property owner, utility or organization such as, but not limited to, homeowners association, subdivision control committee or neighborhood improvement program or group shall remove a protected tree from a greenbelt area for the purpose of construction, or for any other reason, without first obtaining approval from the city tree official. Replacement trees shall be provided as specified in this ordinance.

Removal of such protected trees shall require replacement trees.

(7) Removal at Commercial Development Sites

- a. No person or persons shall remove or bring about the destruction of protected trees on any commercial development site until a plan has been filed and approved by the city tree official. All commercial development site plans shall be reviewed by the tree committee.

- b. Such plot plans shall meet the requirements outlined in section 106-32(c) of this article.
- c. The city tree official shall approve removal of protected trees located on privately owned commercial property when a showing is made that such trees are in direct conflict with sites for major improvements. Removal of such protected trees shall not require replacement trees.
- d. Due to the large areas usually involved in commercial property development and the need to prevent stripping large commercial areas of trees, parking lot requirements shall not be classified as a major improvement of the property in regard to protected tree removal. Parking lot requirements shall be coordinated between the developers, the city tree official and the tree committee with special efforts being made to preserve protected trees in parking lot areas. The city tree official and the tree committee may approve removal of protected trees in the parking areas without replacement trees being required.
- e. The city tree official and the tree committee may also consider removal of protected trees located on privately owned commercial property but not in direct conflict with the site of major improvements or parking lot areas. If the city tree official and the tree committee approve such protected tree removal, replacement trees shall be required as specified in section 106-32(b) of this article.

(b) *Replacement trees.*

- (1) No replacement trees are required for removal of protected trees approved by the city tree official in residential zoned areas.
- (2) No replacement trees are required for removal of protected trees approved by the city tree official in public streets, alleys, rights-of-way or other public lands.
- (3) Replacement trees as specified in subsection (b)(5) of this section shall be required for removal of protected trees in greenbelt areas.
- (4) Replacement trees as specified in subsection (b)(5) below shall be required for removal of protected trees in commercial development sites.
- (5) Where replacement trees are required, the same species or with the approval of the tree committee, other species, shall be relocated or replaced, two replacement trees for each tree removed. The following tree replacement criteria should be specified:
  - a. Minimum diameter of replacement trees should be no less than four inches measured at D.B.H. above grade.

- b. When it is found impractical to relocate or replace on the same property, replacement may be made upon publicly owned property, property of nonprofit organizations, parks, or rights-of-way, subject to approval of the tree committee.

(Ord. No. 1024, § 4, 3-12-96)