

## **Sec. 7.06. - Tree preservation.**

### **Sec. 7.06.1. - Applicability of tree preservation.**

This section applies to all trees in the city, except trees on single-family lots and duplex lots which have received a final inspection.

### **Sec. 7.06.2. - Tree removal permits.**

No person, directly or indirectly, may cut down, destroy, remove or effectively destroy through damaging any tree within the city without first obtaining a tree removal permit, as provided in this section.

1. Damaged trees. The city must issue a tree removal permit for a protected tree, if the owner requests a tree removal permit and:
  - The protected tree is injured, dying, diseased or infested with harmful insects to the extent that it is not likely to survive; or
  - The protected tree is in danger of falling or interfering with utility service or creates an unsafe vision clearance; or
  - The protected tree in any manner creates a hazardous or dangerous condition so as to endanger the public health, welfare or safety; or
  - An arborist certifies that one or more of the foregoing conditions exist; and
  - The city inspects the tree and is satisfied that the foregoing conditions are met.
2. Dangerous conditions. If the owner determines that an emergency situation exists that requires the immediate removal of a tree to protect the safety of persons or property, then the owner may remove the tree only to the extent necessary to eliminate the dangerous situation without a tree removal permit. However, the owner must immediately apply for a tree removal permit. Removal of a tree under this section shall require the owner to comply with the mitigation requirements of this section.
3. Denial of an application for tree removal permit or any application of this section may be appealed to the board of adjustment.
4. The trees to be removed pursuant to a tree removal permit shall be completely removed from the site within 90 days after the date on the tree removal permit. The tree removal permit may be extended one time for an additional 30 days. If the work is not completed within the time limit, then a new tree removal permit must be applied for and issued before the work can continue.

### **Sec. 7.06.3. - Calculation of tree credits.**

1. Credits for tree preservation.

- a. For every protected tree that is preserved as part of a development, the owner shall receive tree credits, according to the following chart.

Six to ten caliper inches, one credit for each caliper inch.

10.1 to 15 caliper inches, two credits for each caliper inch.

Over 15 caliper inches, three credits for each caliper inch.

- b. The city may approve a healthy unprotected tree over 12 caliper inches for tree credits if the tree is located outside the floodplain.

2. Negative credits for tree loss.

- a. For every protected tree removed, including fence row trees, the owner shall receive negative tree credits or shall be required to plant replacement trees as follows:

Trees six to ten caliper inches, two negative credits for each caliper inch.

Trees 10.1 to 15 caliper inches, four negative credits for each caliper inch.

- b. For any healthy, unprotected tree over 12 caliper inches located outside the floodplain, the owner shall receive negative tree credits calculated at one-half of the caliper inches for such tree if the city determines that the tree should be preserved.

3. Credits for replacement trees.

- a. Trees 15.1 to 24 caliper inches shall require the replanting of replacement trees equal to two inches for each caliper inch removed. Replacement trees shall be not less than three caliper inches. This requirement shall be in addition to the requirements of section 7.05 et seq., landscaping requirements.

- b. Trees over 24 caliper inches shall require the replanting of replacement trees equal to three inches for each caliper inch removed. Replacement trees shall be not less than three caliper inches. This requirement shall be in addition to the requirements of section 7.05 et seq., landscaping requirements.

- c. Provided that the trees are of a species identified as overstory trees in appendix C and approved by the urban forester. Trees planted as part of the landscape buffer planting and parking lot landscaping shall qualify as replacement trees.

- d. Each replacement tree allowed as a credit must survive in a full healthy state for at least three years. The owner shall replace any tree allowed as a credit if it dies or becomes unhealthy during the three-year period following planting. This obligation shall be evidenced in the tree mitigation agreement between the owner and the city.

4. Calculation. The owner's total tree credits shall be calculated in accordance with the following: Total tree credits for protected trees preserved, plus total tree credits for healthy unprotected trees preserved, less total healthy desirable unprotected trees removed; plus total tree credits for replacement trees planted, less total negative tree credits for protected trees removed.

(Ord. No. 1939-5-01, 5-3-2001; Ord. No. 2593-2-07, § 1(Exh. A), 2-13-2007)

**Sec. 7.06.4. - Replacement of trees.**

1. If the total tree credits is a positive number, then there is no obligation to replant trees under section 7.06, except as otherwise provided.
2. If the total tree credits is a negative number, the owner must enter into a tree mitigation agreement with the city specifying the obligations of the owner prior to issuance of a certificate of occupancy or at the time public improvements are accepted by the city for maintenance, including:
  - a. The owner must plant protected trees to equal or exceed the tree credit number.
  - b. The city may allow the owner to plant the replacement trees within public parks and rights-of-way selected by the city.
  - c. The owner may elect to defer the planting of the required replacement trees through the escrow of funds to cover the city's cost of planting the replacement trees at a later time based on the cost per caliper inch for planting a tree with a one-year replacement guarantee as established in appendix B.
3. City approval of a tree loss mitigation plan shall constitute a tree mitigation agreement between the city and the owner concerning the owner's obligation to plant replacement trees or to pay money in lieu of replacement.
4. Replacement of trees shall be in accordance with the approved tree loss mitigation plan approved by the city. In approving the tree loss mitigation plan, the city shall consider the species, growing characteristics, root systems, soil conditions and proposed location of replacement trees, as well as other mitigation efforts including, but not limited to, the realignment of rights-of-way or relocation of utilities, which minimize tree loss.
5. The minimum caliper for replacement trees is three inches.
6. All replacement trees shall be planted in accordance with the American Association of Nurserymen, Inc. (AAN) Standard: American Standard for Nursery Stock (ANSI Z60.1, latest edition).
7. The city shall permit payment in lieu of planting replacement trees only in the following circumstances:
  - a. The tract is too small to allow on-site replacement;

- b. The city declines to allow the planting of replacement trees in city parks or public rights-of-way; or
- c. There is no suitable location for the planting of replacement trees. A suitable location is one provided with adequate irrigation, proper soils and drainage, and other conditions requisite for the survival of replacement trees.

(Ord. No. 1939-5-01, 5-3-2001)

**Sec. 7.06.5. - Guidelines for tree protection.**

The owner shall adhere to the following tree protection measures on all building sites:

1. Prior to construction or land development, all protected trees shall be clearly marked;
2. A protective fence shall be erected around each protected tree or group of protected trees at least beyond the drip line of such tree;
3. During construction, no access is permitted within the protective fence for any purpose, except cleaning trash that has entered the area;
4. No attachments or wires of any kind, other than those of a protective nature and approved by the parks and recreation department, may be attached to any protected tree.

Any grade changes, retaining walls, tree wells or other construction activity within ten feet of the drip line of a protected tree shall require approval of the city.

**Sec. 7.06.6. - Fence row tree preservation.**

1. The owner shall preserve all fence row trees in a residential development by providing a 15-foot protected area centered 7½ feet on each side of the centerline of the fence row trees, except that fence row trees may be removed and mitigated if approved by the city. Proposed fence row trees removed or mitigated must be identified on any plan presented to the city for approval.
2. The owner shall preserve all fence row trees in nonresidential developments by providing a 15-foot protected area centered 7½ feet on each side of the centerline of the fence row trees, unless the planning and zoning commission determines that the location of the fence row trees in the nonresidential development is such that the property cannot be developed because of the fence row trees.
3. Except as provided below, the owner shall not remove fence row trees within the protected area for the purpose of installing utility lines, digging trenches (including irrigation trenches), pouring alley paving, or constructing, erecting or placing any structures. Fence row trees may only be removed to provide access to an existing alley on the other side of the fence row. However, these fence row trees shall accrue negative tree credits as part of the development.
4. The chief building official or his designee shall approve all residential fences proposed to be located in the protected area.

(Ord. No. 2425-7-05, § 1, 7-26-2005)

**Sec. 7.06.7. - Special provisions for agriculture/open space property.**

This section applies to real property having an agriculture-open space zoning district classification, or having an agricultural exemption for taxation purposes.

1. There is no requirement that the owner comply with the mitigation provisions of this Code at the time of the tree removal. However, the property is still subject to the development requirements at such time as development occurs and the trees removed shall be counted as part of the tree credits. The owner must provide a notice in the real property records acknowledging the obligation to mitigate the tree removal.
2. No tree removal permit may be issued under this section of the Code for any trees that are fence row trees or are historic trees.

**Sec. 7.06.8. - Historic tree preservation.**

No tree removal permit may be issued for a historic tree unless the owner establishes that preserving the historic tree constitutes an unreasonable financial hardship on the owner. Appeals from this determination shall be to the board of adjustment.

**Sec. 7.06.9. - Enforcement of tree preservation.**

The urban forester shall be authorized to approve tree loss mitigation plans and to enforce other provisions of this section. The urban forester shall be an employee of the city and certified as an arborist by the International Society of Arboriculture (ISA) or registered as a landscape architect by the Texas Board of Architectural Examiners.