

ARTICLE VII. TREES

Sec. 14-241. 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:

Circumference means the circumference of a tree trunk measured three feet above the ground using an ordinary tape measure. Measurement height shall be taken just above or just below any unusual swells in the trunk as close as possible to the three foot level. For multiple tree trunks the circumference is equal to the circumference of the larger trunk plus one-half the circumference of other trunks.

City forester means the person designated by the city council to administer and enforce the provisions of this article.

Critical root zone means the area of a tree within a circle centered on the trunk location, the diameter of such circle being one-half the sum of the longest and shortest drip line diameters.

Damage means any action to a tree which would reasonably be expected to result in a tree's death, either immediately or after a reasonable period of time. Without limiting this definition, some examples of damage are severing the main trunk or large branches or large roots, girdling, poisoning, carving, mutilating, touching with live wires, and piercing with nails or spikes, crushing or exposing the roots, covering a substantial part of the critical root zone, or compacting a substantial part of the soil in the critical root zone.

Located means within a subject site if any part of the subject tree is within the subject site at ground level.

Subject site means:

- (1) Any lot, tract, or parcel of land;
- (2) Any portion of an adjoining lot, tract, or parcel of land under common ownership with the first lot, tract, or parcel of land, and which is not part of another subject site; and
- (3) Any area out to the centerline of a street abutting a lot, tract, or parcel of land.

Tree means a woody plant, having one well-defined stem or trunk and a defined crown, and which is either (i) grown to at least one-third of its projected mature height, or (ii) has a circumference of 20 inches or more.

Tree disposition plan means a plan which specifies how trees and critical root zones will be protected from a proposed development. The tree disposition plan shall specify trees to be relocated, removed or replaced. The tree disposition plan shall include a tree survey showing the location of all trees, circumference of each, type of each, and crown area (drip line) of each.

(Ord. No. 395, § 3(5-111), 1-11-1994; Ord. No. 411, §§ 2, 3, 6-8-1995; Ord. No. 421, § 1, 9-12-1996)

Cross references: Definitions generally, § 1-2.

Sec. 14-242. Permit required.

It shall be unlawful for any person to remove or to intentionally or with criminal negligence damage any tree or trees within the city without having first obtained from the city a tree destruction permit.

(Ord. No. 395, § 3(5-112), 1-11-1994)

Sec. 14-243. Criteria for issuance of permit.

- (a) An application for a tree destruction permit must be made by the owner of the subject site on which an affected tree is located.
- (b) A permit shall be issued without cost or conditions if the tree in question is diseased, severely damaged, or dead.
- (c) A tree destruction permit shall be issued if the tree in question constitutes an unreasonable impediment to the use and enjoyment of the subject site.
- (d) Except for trees which constitute an unreasonable impediment to the use and enjoyment of the subject site, a tree destruction permit shall not be issued for the removal of or damage to a tree with a circumference larger than 72 inches unless the tree is severely damaged, diseased, or dead.

(Ord. No. 395, § 3(5-113), 1-11-1994; Ord. No. 411, §§ 4, 5, 6-8-1995)

Sec. 14-244. Permit conditions.

A condition for the issuance of each tree destruction permit under this article shall be the planting and maintenance of a replacement tree. Notwithstanding the foregoing, no replacement tree shall be required to be planted nearer than 30 feet from the trunk of another tree existing on the subject site, within the critical root zone of another tree

existing on the subject site, or within areas covered by buildings, enclosed structures, or swimming pools. If there is no point or location on a subject site outside the above-described excepted areas, no replacement tree shall be required. Provided further, the tree for which a tree destruction permit is requested shall not be deemed to be another tree existing on the subject site.

(Ord. No. 395, § 3(5-114), 1-11-1994; Ord. No. 411, § 6, 6-8-1995))

Sec. 14-245. Tree disposition plan.

No permit shall be issued, for the construction, alteration, remodeling, or destruction of any building or structure, or any subdivision improvement, unless the applicant therefore has submitted to the city forester, and received approval therefore in accordance with this article, a tree disposition plan together with a plan for the protection and preservation of each tree impacted by any such activity. Tree loss protective measures shall be taken for all trees subject to danger unless removal thereof is required because of the proposed location of the building, structure, or improvement. Under a tree disposition plan, a tree with a circumference of more than 72 inches shall not be removed or damaged unless the tree is diseased, severely damaged, or dead. The city administrator shall promulgate administrative guidelines for tree disposition plans. No tree disposition plan shall be approved except in conformance with such guidelines.

(Ord. No. 395, § 3(5-115), 1-11-1994; Ord. No. 421, § 2, 9-12-1996; Ord. No. 503, § 2, 7-12-2001)

Sec. 14-246. Replacement trees.

- (a) If a tree is required to be removed, it shall be replaced by a tree of equal or greater size, both as to height and circumference; provided, however, in no event shall such replacement tree be required to exceed 15 feet in height or have a trunk which exceeds 20 inches in circumference. Provisions shall be made for maintenance of all replacement trees so as to reasonably assure survival and normal growth. No replacement tree shall be approved unless it complies with the minimum standards contained in this article, and is of a variety appearing on the list of approved replacement trees in subsection (b) of this section.
- (b) A replacement tree shall be either of the same type as the tree which was removed, or one of the following: Anaqua, American Elm, American Holly, Baldcypress, Black Gum, Black Oak, Black Walnut, Bur Oak, Callary Pear Cultivars, Carolina Cherry-Laurel, Cedar Elm, Chinese Elm, Chinese Pistache, Chinese Pistachio, Chinkapin Oak, Drake Elm, Eastern Persimmon, Ginko, Gum Bumelia, Hawthorne, Hickory, Honey Mesquite, Huisachillo, Ironwood, Japanese Black Pine, Japanese Pogodatree, Junipers-Cedar, Live Oak, Loblolly Pine, Mescal Bean Sophora, Mexican Plum, Nuttail Oak, Overcup Oak, Pecan, Post

Oak, Purple Leaf, Redbud, Red Maple, River Birch, Shumard Oak, Slash Pine, Southern Magnolia, Southern Red Oak, Southern Sugar Maple, Spanish or Texas Red Oak, Swamp Chestnut Oak, Sweetbay, Sweetgum, Texas Persimmon, Tulip-poplar, Tupelo, Water Oak, White Oak, Willow Oak, Winged Elm, Yaupon Holly.

(Ord. No. 395, § 3(5-116), 1-11-1994; Ord. No. 411, § 7, 6-8-1995)

Sec. 14-247. Appeals.

Any person aggrieved by a decision of the city forester under this article may appeal such decision to the city council by written notice to the city secretary thereof, not less than 20 days following entry of the decision appealed. Upon any such appeal the city forester shall forthwith submit all applicable records and findings to the city council as part of the record of such appeal. If the city council determines that an error has been made in the application of any provision hereof, it shall reverse or modify the decision of the city forester and issue such orders as it deems necessary and appropriate.

(Ord. No. 395, § 3(5-117), 1-11-1994; Ord. No. 421, § 2, 9-12-1996)